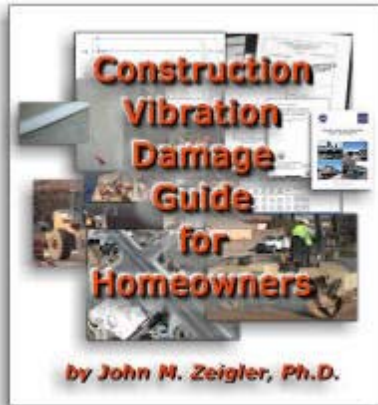


<http://vibrationdamage.com>

Copyright © 2013 John M. Zeigler All rights reserved

CVDG Contents



Construction Vibration Damage Guide (CVDG) for Homeowners

Table of Contents

You'll find the hyperlinked Table of Contents for the free CVDG just below. You can use it to navigate all the CVDG pages. The *Guide* does not specifically cover vibration damage from machine tools in factory settings, health effects of vibration, or any other form of heavy equipment vibration than that used in construction (i.e. in road and bridge building, building construction, etc.), although some of the information may be generally useful in some of those settings. The CVDG Professional Edition includes additional, somewhat more technical content for businesses and individuals.

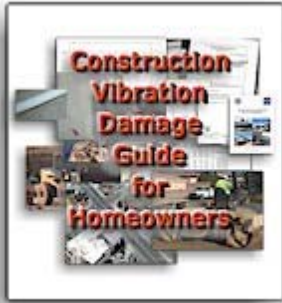
Disclaimer: The Construction Vibration Damage Guide is not offered, and should not be considered, as legal advice. Seek the advice of an attorney with construction vibration damage claim experience and knowledge, if you need legal help. Trademarks appearing in the CVDG are the properties of their respective owners and are used in the CVDG only for the purpose of identification.

CVDG Table of Contents

- ✚ [Construction Vibration Damage Guide - Overview](#)
 - [CVDG - Foreword](#)
 - [CVDG - Table of Contents](#)
 - [Construction Vibration Damage Guide - Intro](#)
 - [Vibration 101](#)
 - [Is Damage Possible?](#)
 - [Pre-Construction](#)
 - [Vibration Potential](#)
 - [Recognizing Damage](#)
 - [Recording Damage](#)
 - [Pursuing A Vibration Damage Claim](#)
 - [After the Claim](#)
 - [Conditions Documents](#)
 - [Involving an Attorney](#)
 - [Litigating](#)
 - [Counterarguments](#)
 - [Settlement](#)
 - [Giving Testimony](#)
 - [Vibration Monitoring](#)
 - [Vibration Data Reports](#)

- Vibration Data Issues
- Vibration Standards
- Resonance/Fatigue
- CVDG - More Information
- Closing Thoughts
- CVDG - The Author

CVDG Foreword



The *Construction Vibration Damage Guide for Homeowners* (CVDG, ©Copyright 2013 John M. Zeigler) was developed for use by homeowners who feel they might have experienced damage from construction vibration or for those homeowners who have construction planned for their area and wish to take steps to avoid damage to their homes. It includes a great deal of scientific and technical information, written for non-scientists, that attorneys and responsible construction firms may find valuable, as well.

The *Guide* is available free for personal, non business use to anyone. The copyrighted CVDG may not be copied, offered in PDF format or reproduced in any form on other web sites. The page (<http://www.vibrationdamage.com/vibdamguide.htm>) may be linked by other sites or cited as the source of the *Guide*.

The *CVDG* is based on almost four years of daily experience and scientific work in this area by Dr. John Zeigler, arising out of extensive road reconstruction vibration damage done to his own home. This extensive damage was initiated by repeated pounding on pavement with a large tracked excavator at multiple locations - done to break the existing asphalt. The pounding was carried out both before and after notification of the contractor and the work sponsor of the damage and its cause. Dr. Zeigler was the primary scientific consultant in his own case, because there was very limited real scientific expertise and experience in vibration damage and monitoring accessible in his area. Although the CVDG is not a retelling of Dr. Zeigler's example and case, it does use some examples from it to illustrate what can happen to cause vibration damage and how a vibration damage claim can proceed.

The *CVDG* is **not** intended to be a "how-to" manual describing the "ins and outs" of suing contractors. Many construction contractors are reasonable, professional and honest. An honest contractor will try to help with any well-founded damage claim. However, if you have a lot of damage (e.g. almost \$250,000 in the author's example), usually because the contractor employees were carrying out operations in non-accepted ways and/or in direct violation of the contractor's own policies (see above), you may find it much more difficult to deal with the contractor or its insurer. The result is that you will have to pursue the claim or pay for the damage yourself. The CVDG will help those facing this problem to increase their chances of fair treatment.

The *CVDG* furnishes those who may be unfamiliar with this area the facts, knowledge and understanding to pursue effectively a **legitimate** claim. In **mostly non-technical language**, it describes what you can do to avoid damage, how to document a legitimate claim for damages, how to evaluate options in making a claim for damage reimbursement, what operations are most likely to cause damage, how to understand vibration monitoring results, what resources are available on the Internet and much more. Of course, I also hope that this Guide will help those who **must** get an attorney

to prepare for a discussion of their claim and, perhaps, help them in educating the attorney on some important technical issues.

The Guide has been deliberately simplified for a non-technical audience. A listing of some of the issues which have been only outlined or left out entirely can be found in its Closing Thoughts section. Although the technical issues are not hard to understand for anyone with some high school level background in physics, the language of the ground vibration literature may not be within reach of everyone. The *Guide* attempts to address this problem by **offering simple analogies and defining critical terms**, so that people with non-technical backgrounds can read at least the most important of the ground vibration literature and gain some understanding of it.

Also, the *Guide* provides information on **analyzing ground vibration monitoring results** to find out whether claims based on them are really justified. It has been my experience that such claims are often overstated or, sadly, outright false. Unfortunately, even the construction companies who sponsor such work may be ill-prepared to read and understand vibration monitoring data acquired at their behest. Too often, to their misfortune, they must depend only upon the word of their vibration monitoring sub-contractor. We have seen examples where some vibration monitoring sub-contractor employees were demonstrated to be incompetent, poorly trained, inadequately supervised, unprofessional and flatly dishonest. Construction companies may find the *Guide* valuable in understanding and validating the vibration monitoring testing results and procedures, which they have contracted with others to perform.

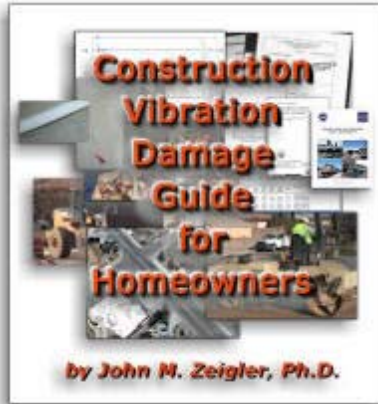
To learn more about construction vibration damage via Vibrationdamage.com's web pages, begin with the CVDG Table of Contents or Introduction page, then follow the links to other parts of the CVDG. You can also download a [full copy of the CVDG](#) in PDF format. An extended version of the CVDG, the CVDG Professional Edition, can be purchased by those who need more information or those who wish to use the CVDG in business activities.

Disclaimer: The Construction Vibration Damage Guide is not offered, and should not be considered, as advice on the law in any jurisdiction or form. Seek the advice of an attorney with construction vibration damage claim experience and knowledge, if you need legal help. Trademarks appearing in the CVDG are the properties of their respective owners and are used in the CVDG only for the purpose of identification.

CVDG Intro

The Construction Vibration Damage Guide for Homeowners (CVDG)

Introduction



This section of the *CVDG* ("the *Guide*") has summary information for those who have developed cracking, door and window misalignment or other signs of distress in their homes while road construction, or any other heavy equipment construction causing ground vibration, has been occurring within hearing distance. These homeowners may have real concerns about whether the construction caused the damage to their home or property and how they should deal with that problem.

This and linked pages in the *CVDG*, which provide more detail on all the topics mentioned in this section, are directed mostly at homeowners facing potential or existing construction vibration damage to their homes. Responsible contractors with an interest in understanding vibration monitoring results and attorneys working in vibration damage litigation may also find parts of the *CVDG* useful. The *Guide* is written mostly in non-technical language, although it discusses and explains many scientific and technical concepts and issues. The tips here and on linked pages in the *CVDG* should not be considered as attorney or legal advice ([see disclaimer](#)). At the top, left and bottom of this page, you'll find links to more extensive discussions of individual topics in the *CVDG*, as well as links to other parts of [Vibrationdamage.com](http://vibrationdamage.com).

Background

Most people living in towns and cities will have road or other construction using heavy equipment occurring in the immediate area of their homes or businesses sooner or later. Many construction companies are professional, honest and responsible. But, there are some whose behavior is not so admirable. Unfortunately, **misbehavior and misuse of heavy equipment** by construction workers are all too common. When misused, or used properly too close to homes and other properties, heavy construction equipment vibration can, and does, damage structures. This fact is part of the reason why contractors must carry insurance for most projects. Although much of what can be found on this subject on the Internet says that construction can't damage structures, such statements are often based on poor analyses of the literature and incorrect application of vibration standards.

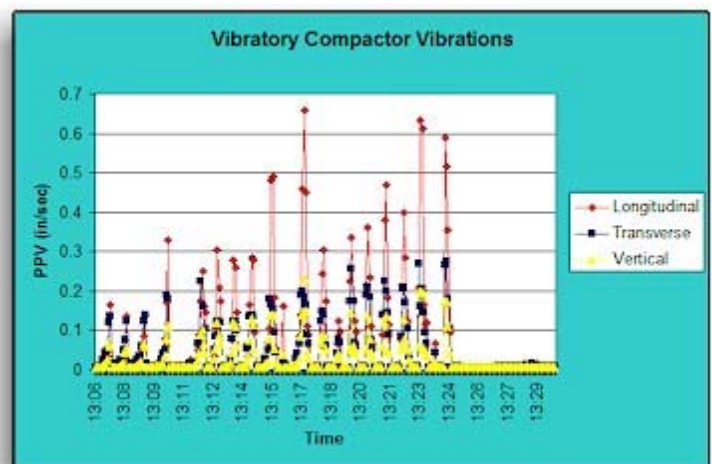
Construction vibration damage often takes place without the immediate knowledge of the nearby residents, simply because they haven't thought to look for it. Only later,

as damage becomes more extensive and apparent, will some homeowners note it. Those homeowners who find the damage may not make the connection between it and the construction work, because they are unaware that vibration damage to structures can occur in construction using heavy equipment. Of course, since most people work during the day, homeowners often do not know that potentially damaging vibrations have taken place in their homes.

Most people don't have the scientific knowledge and legal experience to document a vibration damage claim properly, deal with the contractor, its insurer and its attorneys or understand vibration monitoring data acquired on behalf of the contractor. Without proper knowledge, preparation, documentation and analysis, most homeowners simply don't have a chance against a construction company determined to evade responsibility for damage it has caused. **The CVDG will help you gain that knowledge.**

How Damage Can Happen

Most construction companies, and the companies which do vibration monitoring for them, will tell you that they do not cause damage to structures in the normal course of their work. This view, while perhaps self-serving, is justified in many cases. But, it hinges on the definition of "normal course", the nature of the equipment used, and the location of the work relative to structures.



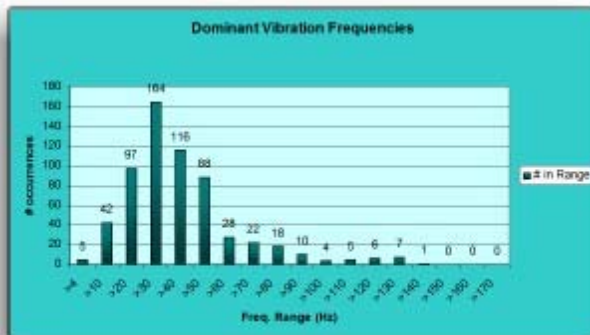
Under pressure of deadlines and monetary penalties for failure to meet them, or even just for "fun", construction company employees will sometimes take "shortcuts". Many of these shortcuts the construction company itself would not sanction. Even some properly done construction operations, e.g. impact pile driving and use of vibratory compactors in paving operations (see diagram at right for recorded vibrations in a road reconstruction project), can cause vibration damage if close enough to the nearby property. Most of the vibratory compactor vibrations shown in the diagram violate some or all of the relevant vibration standards. For more on the likelihood of construction-related damage, see our page, Is Damage Possible?

Single Event vs. Continuous Ground Vibration

Most ground vibration standards, and statements about them, are based on studies of blasting vibration in mine and quarry operations. It is important to understand that such studies, and the standards based upon them, estimate **damage probabilities for a group of structures from a single blasting event, not the probabilities of multiple events damaging a single structure**. These standards, and the studies supporting them, have much value when properly applied to blasting situations, since blasting creates vibrations lasting, at most, a few seconds. However, blasting standards are not good parallels for construction settings, where vibration can continue for minutes, hours,

weeks or even months (see above for a representative example of vibration at one home location in a road reconstruction project).

Statements are commonly made, on the web sites of the vibration monitoring firms who work for contractors, to the effect that "damage can't occur" from construction vibration. Typically, such assertions are ultimately based on blasting vibration standards. They are questionable in construction vibration settings, from a scientific and, perhaps, conflict-of-interest standpoint. In one example, a road construction contractor's own vibration monitoring indicated that it **violated relevant road construction standards at least six hundred times in the course of a road reconstruction project**. Extensive damage of similar appearance was done in that project to a large minority, if not a majority, of homes along the path of the work.



Continuous or near-continuous construction vibration brings into play resonance and fatigue effects, which are far less significant in relatively infrequent and widely spaced mine blasting events. Thus, **use of mine blasting-based standards in construction situations is misleading and ill-advised**. Worse yet, because of the nature of the way ground vibrations move through soil, **properties a few hundred yards away**

from the construction can be damaged by vibrations in some circumstances.

Handling Construction Vibration Damage to Your Home

If you have construction ongoing in your area (i.e. within hearing distance), you should **immediately examine your house for signs of cracking**, particularly diagonal ones at the corners of wall penetrations (doors, windows), and cracks in concrete patios, driveways and slabs. It is best to document carefully the condition of your house, even if you don't see cracking at that time, as cracking may develop later or become more visible. Construction damage can take months to become fully apparent, so any increase in cracking or other damage to the house is cause for concern.

The best approach is to head off vibration damage problems prior to construction by documenting the house condition and registering your concerns in public comment meetings. If you end up with damage, there are some things you should keep in mind. Construction companies receive complaints with some frequency about damage alleged to have been caused by their activities. They are experienced in dealing with complaints. Many will likely discount as "pre-existing damage" any claim you make based solely on your statements. You must have documentation of the damage and substantial evidence of a causal link to the construction activity, at a minimum. If your claim is substantial, it will most likely be ignored without this evidence and more. That said, the fact that construction companies usually must carry insurance for their work indicates, by itself, the potential for damage, even though it doesn't always occur.

Damage Classification and Documentation



Damage to structures is usually classified as "structural" or



"cosmetic". **"Structural damage"** refers to any type of change which could compromise the stability of the structure. Its existence is usually determined by a structural or civil engineer who examines the damage. Structural damage is often hidden or disguised by overlying cosmetic damage and can involve damage to mechanical systems (heating, air conditioning, plumbing) in the house, as well as to the structure itself.

"Cosmetic damage" is basically everything else which affects the appearance of the house: cracking of drywall or plaster, nail or screw "pops", exterior damage to the finish of the house, cracking of concrete driveways or patios, surrounding property wall damage, doors and windows out of alignment due to shifting of the structure, and so forth. Some types of construction-caused damage can look very similar to "settling damage", so you will need to try to differentiate the two, especially in light of the high likelihood that a contractor and their representatives will say the damage is pre-existing or due simply to normal settling. For more on this topic, see our pages, [Recognizing Damage](#) and [Counterarguments](#). Whether you have cosmetic or structural damage or both, you will need to document it as extensively and as early as possible. For more on documenting damage, read our page [Recording Damage](#).

Damage Costs

"Structural" and "cosmetic" are **not** synonymous with "expensive to repair" and "inexpensive to repair", respectively. A large amount of "cosmetic damage" can be more expensive to fix than limited structural damage. Since **the total damage loss governs your options and your course of action**, that is the standard by which you should judge your damage and determine how you handle your claim. In one case, the repair cost for the "cosmetic" damage was nearly \$70,000, plus the cost of completely moving out of the house while the repair was done (over \$40,000), plus an additional \$20,000 of move-related costs.

Note that, if you have extensive damage of either or both types, **your loss may not include only the repair-related costs**. In just about all jurisdictions, an owner is required to disclose any significant damage, even if repaired, to any potential buyer of the property. Most real estate people will tell you that **this disclosure requirement can result in a significant loss of value of the property** (e.g. an estimated \$100,000 in one case of which we are aware), even after the damage is repaired. You will need an appraisal from an appraiser experienced with damaged homes to understand this potential disclosure loss prior to determining the value of your claim and your course of action in resolving it. A qualified real estate broker may also be able to do this. It is also wise to consult a real estate attorney to learn about your disclosure responsibilities in your jurisdiction when you sell a damaged house.

Legitimate Claims

A vibration damage claim is **not a good way to "get rich"** or to get a few cosmetic drywall cracks fixed "for free". Although some construction companies will pay small claims fairly easily through their insurance, many will fight every aspect of even a legitimate claim, especially if it is large. If you have just noted a few (under 10 or so) hairline cracks, it's at least possible that they were present before the construction;

you may not have seen them. It is highly likely that you will hear just that argument if you make a claim, whether or not it is accurate in your situation. It often takes determination and persistence to pursue a damage claim, so it should not be undertaken lightly. That said, if you can provide evidence of the construction causing the damage and have sufficient damage to justify your time, effort and money in pursuing your claim, then doing so is a realistic option.

Questionable claims can be fought by construction companies by use of "pre-construction surveys". Such surveys are often required by contract. They can involve something as simple as a construction company employee driving or walking by recording video of the outside of the house prior to construction start. In other cases, the contractor will seek permission also to videotape the interior of your home before start of construction. Just as videotaping may be required prior to the start of construction, some contracts may require pre-construction vibration monitoring in the area of the construction, which gives an idea of the normal vibration levels caused by traffic and people. If such surveys are done, you will need to **get copies of them** to pursue your claim.

What If I Have Damage?

If you believe you have construction-related damage, you must first **consider the extent of the damage and the progress of the job** at the time you note the damage. A few "cosmetic" cracks in drywall or plaster simply are not of enough significance to justify pursuing a claim, especially if you note them late in the project. If you notice substantial damage early in the project, your very first action must be to **immediately notify, preferably both verbally and in writing**, both the construction contractor and the entity (usually governmental) for whom the contractor is doing the work. Notification gives them a chance to address your damage and make any changes necessary to avoid further damage. It also helps protect your legal rights. Usually, the insurance carrier for the job will be called in immediately and you will be dealing with the insurer, rather than the contractor or sponsor of the work.

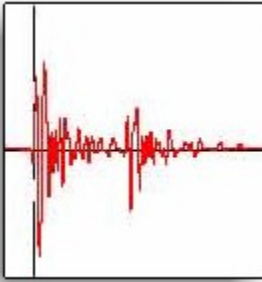
Often, the contractor or their insurance company will involve an attorney almost immediately. At that point, you will have to give serious consideration to how to pursue your claim, perhaps even getting your own attorney, if your damages will justify the expense. We also provide information on what to expect after you make your claim.

Where Do I Go Now?

Other topics discussed in the *CVDG* can be located in the CDVG Contents and in the links along the margins of the pages. To give yourself maximum flexibility to view the *CVDG* web pages, you may want to open the CDVG Contents in a separate window or tab. You can get a **free, non-business use copy of the entire CVDG** in PDF format from our Downloads page. If you have just noted damage in your home, you will probably want to start with the CVDG sections Vibration Potential, Recognizing Damage, Recording Damage and Pursuing a Claim. If construction is scheduled near your home, but hasn't taken place, take a look at Pre-Construction for steps you can take to safeguard your home and document its condition prior to construction.

Disclaimer: The Construction Vibration Damage Guide is not offered, and should not be considered, as advice on the law in any jurisdiction or form. Seek the advice of an attorney with construction vibration damage claim experience and knowledge, if you need legal help. Trademarks appearing in the CVDG are the properties of their respective owners and are used in the CVDG only for the purpose of identification.

Vibration 101



Every one of us experiences vibrations constantly. If we are not hearing-impaired, the sounds we hear are vibrations in air. The waves in a pool, lake or the ocean are vibrations in water. We all feel that we understand what the term "vibration" means, because we are all so familiar with various forms of it. However, many people may not be aware of what vibration means in the technical sense, especially when it comes to ground vibrations.

Because an understanding of vibration in that sense is important for what comes after in the CVDG, we will undertake on this page to provide some definitions and examples that provide a better, though mostly non-technical, understanding of what constitutes ground vibration.

Vibration in Physics

A vibration in the scientific sense is a passage of energy that causes oscillations (movements back and forth) about an average position in the particles or molecules which make up the material. Such vibration passages produce no permanent change in the position of particles making up the vibrating material. A vibration must travel in some physical material. In that respect, it is different from visible light and other forms of electromagnetic radiation (X-rays, radio, ultraviolet, etc.) which can move through total vacuum.

Introductory physics often talks about **ideal materials** in which vibrations, once started, persist indefinitely. Vibrations in real materials eventually fade away due to damping effects, which ultimately convert the vibration energy to heat. You can show the effect of damping just by tapping a glass; initially the sound is relatively loud, but dies away quickly because the energy of the vibration is lost to creating the sound you hear when you tap the glass. Some of that energy also goes into producing a very slight temperature increase in the glass itself. This is the reason that articles that undergo continuous vibration become warm or even hot, as the repeated vibrations impart more and more energy to them, which appears as heat (a faster and more disordered movement in the molecules of a substance). The conversion of vibration energy to heat is an example of the operation of the famous Second Law of Thermodynamics, which says that entropy (disorder in a system) tends to increase over time.

Vibrations and Waves

The vibration of water to form waves shows one of the prime properties of vibrations, that they move as waves of repeated displacements in the particles or molecules which compose the material. Waves in water are relatively simple, in part because water is pretty much the same everywhere in the local "neighborhood" and relatively frictionless. We can see waves on water, but visualizing vibrations in other materials requires specialized equipment (e.g. a microphone and an oscilloscope for sound, a seismograph for ground vibration).

In real-world materials, vibration waves often look different, both in shape and intensity, along the three different directions (up-down, back-forth, side-side), so scientific instruments are designed to record the vibrations in all three perpendicular dimensions at the same time. These differences are also important from the damage standpoint; vibrations in the side-side ("**transverse**") and back-forth ("**longitudinal**") directions cause potentially damaging **shear** (differential directions or speeds of movement) within structures. The up-down ("**vertical**") movement is usually less damaging, because structures are built to withstand vertical forces.

Simple waves can be characterized by something called the "**frequency**", usually quoted in Hertz (Hz). It is just the number of wave peaks passing a given point per second. Even though most vibration waves are not comprised of a single frequency, they can be analyzed mathematically to reveal that they have multiple "**frequency components**". Components with different frequencies travel differently in materials. If you have a stereo, you know that the deep bass notes (low frequency) travel further than the high notes (high frequency). The same thing happens in ground vibration. Unlike your stereo, the ground vibration frequencies of most concern and interest are not those that can be heard; they are more felt than heard. Typically, construction vibrations have components which range in frequency from about 100 Hz down to below 10 Hz; those frequencies below 40 Hz are the ones of most concern in causing damage.

Sound vibrations and ground vibrations are typically very complex in their wave structure, being comprised of multiple waves of different frequencies. But, they still look like waves when visualized with the proper equipment (see the illustration above for a seismograph trace of the wave structure of a ground vibration). The frequency components of a given complex wave can be extracted from the shape of the wave using a computer running a "**Fast Fourier Transform**" program.

Ground Vibration



Ground vibration can be either natural (earthquakes) or man-made (blasting, construction, equipment, etc.) in source. In both cases, **seismographs** (see blasting seismograph example at left) are used to record the ground vibration. To accomplish this meaningfully, seismograph detectors must be firmly anchored to the ground (i.e. they must achieve good "**ground coupling**") so that, as the ground moves, the detector moves in exactly the same way. Without proper ground coupling, seismograph data are meaningless.

Seismographs for earthquake measurement are somewhat different from those used for man-made ground vibration measurements, in part because they must be able to measure a **far** greater range of ground vibration intensities than those produced by human activities. This is the reason that the "Richter Scale", used to describe the intensity of earthquakes, is both "open-ended" and exponential. Every unit increase in Richter intensity indicates an energy involved which is ten times greater than the next lower one. In spite of their design differences, the purpose for both kinds of seismographs is the same - to provide a reliable record of ground movement.

Unlike the "ideal" vibrations discussed above, which involve movement of particles or

molecules back and forth about one unchanged position, both earthquake vibrations and some man-made ones can produce **permanent** changes in the relative positions of "particles" comprising structures. Since these permanent changes are essentially always unwanted, we refer to them as **damage**. In earthquakes, such damage can be seen as cracks in the ground and, in a large earthquake, collapsed buildings and infrastructure. **The larger the vibration, the greater the potential for these permanent changes in particle positions.**

Vibration and Distance

In materials like water, which are the same pretty much everywhere (i.e. "isotropic", "homogeneous"), the vibration intensity decreases with distance approximately according to the same " $1/r^2$ " law that Newton found for light intensity with distance from the source. The reason for this is fundamentally geometric: as a given amount of energy spreads out from a source, it passes through a "sphere" of continually increasing size whose surface area increases proportional to the radius squared (r^2) and, over which, the energy spreads. However, most materials, especially the ground, are anything but isotropic.

Different types of rock and soil transmit vibrations differently, in intensity, frequency, and speed. Even soils with different amounts of moisture can behave differently in vibration transmission. These differences are pretty well-understood by geologists, particularly those at oil companies, who use them in a technique called "seismic profiling" to reveal underlying rock structures and search for possible oil deposits. The result of these transmission differences is that ground vibration intensities usually don't follow the " $1/r^2$ " law with any exactness, even though vibrations generally decrease in intensity with distance. It's not that Newton's relationship was wrong; it's just that the ground is a very complex mixture of materials and underground layers, each with its own vibration transmission properties.

Vibrations can also be reflected from some rock layers, creating **interference** patterns with other parts of the vibrations. Interference can be easily seen in water as waves reach the shore and reflect back onto the incoming waves, producing a more jumbled pattern of waves. In this and all other forms of wave movement, wave peaks and valleys in multiple waves interact to produce a larger or smaller sum wave, depending on whether wave peaks coincide with wave peaks ("**constructive interference**") or wave peaks coincide with wave valleys ("**destructive interference**").

Being at a greater distance from a vibration source can't always be seen as much comfort, if your home is close enough to hear the vibration source. Indeed, it is well-known that some types of lesser vibrations at a greater distance can be more damaging than those closer in. This is due to a well-documented lowering of the ground vibration frequency with distance; some low frequency vibrations have special interactions (called "resonances") with the house structure that other, higher frequency, vibrations lack.

Causes of Man-made Vibration

Most people know that vibration can be produced in many different ways and transmitted through all kinds of different materials. However, most kinds of man-made

vibrations, including those caused by people walking on floors in a house, are too small in intensity, last for too short a time and/or affect too little an area to be of much concern in causing damage to a structure. From the standpoint of damage to structures, there are only **three important sources of man-made vibration: blasting, operation of heavy equipment and, in some extreme cases, traffic and other transportation.**

Much of the scientific literature of vibration effects is based on mine blasting, because such damage effects were recognized earlier in mining than in construction. The mining vibration studies provide much useful information on vibration effects, even though they are not directly useful in estimating likelihood of damage from construction activities. Vibrations from construction operations are increasingly becoming recognized as causes of damage to homes and other structures. In many ways, they are more worrisome than blasting, because of their much longer vibration durations.

Damping Vibration

Hard materials like rock, or to a somewhat lesser extent, a home, transmit passing vibrations well. If the vibration is sufficiently large or continues long enough, they will be damaged. It is possible to decrease vibration transmission and buildup, usually by directing the vibration to a material which can move, and thereby, convert the vibration energy ultimately to heat. There are many examples of this approach in our everyday world.

Many cars use shock absorbers of various sorts filled with gas or liquid. Vibrations from the wheels are transmitted into the shock absorber, where most of the intensity is absorbed in the movement of the fill material. Most car engines are mounted on large blocks of special rubber, which move slightly while the engine is running, absorbing the engine vibrations. These approaches are also used, to some degree, in earthquake proofing buildings in earthquake zones, albeit on a huge scale.

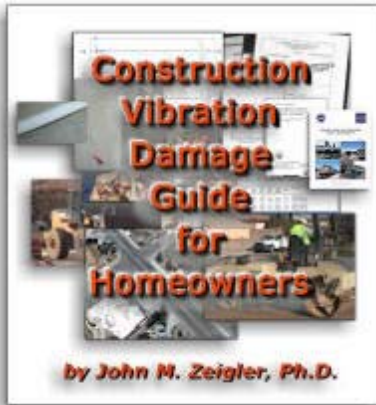
Since rock is a good vibration transmitter, a different approach is used in mine blasting to reduce vibrations. It's possible to break and heave rock away from the working face with a large single explosion. This single blast creates very large vibrations, so most mines and quarries use instead small amounts of specifically-patterned explosive charges to break the rock first, then a second set of charges a few thousandths of a second later to heave the broken rock away from the mine face, where it can be loaded and transported. Since the rock is already broken, the cracks absorb a good deal of the vibration of the second blast. The overall effect is the use of less explosive, creating less vibration. Because the blasts are timed so closely together, mine neighbors' homes effectively experience only one, smaller blast.



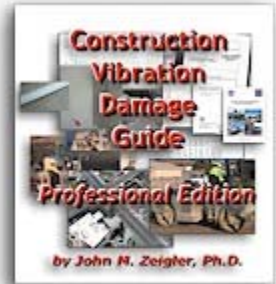
Construction vibration can be decreased mostly through the use of the correct equipment in the correct way. Generally, speaking, most operators' manuals for heavy equipment have specific prohibitions against using the equipment in ways that would damage both nearby homes and the equipment itself. Certain types of operations (e.g. pile driving and vibratory compaction) pose unusually high and well-known vibration risks; these should be avoided entirely or steps taken to limit or absorb the vibration

produced. The Federal Transit Administration's Noise and Vibration Manual provides a list of steps to be taken and procedures to be avoided in mitigating construction vibration.¹

The CVDG



I hope that this short tutorial on vibration will help you in reading and using to best effect the rest of the CVDG, in either the free Edition for Homeowners, available in full online, or the Professional Edition. Although a full scientific understanding of vibration and its effects can be quite involved, the basic concepts are within the understanding of most people. If you have construction-caused vibration damage or are concerned about that possibility, the CVDG will help



you understand the issues, evaluate your position and deal with those who may have caused the damage.

1. Federal Transit Administration's Noise and Vibration Manual, p. 12-12 - 12-13

Is Damage Possible?



Anyone searching the Internet for information on construction vibration damage will find numerous sites of vibration monitoring firms and consultants. Many of these say, in essence, that "damage can't happen" in construction. Unfortunately, these views may not be entirely unbiased and free of conflict of interest, since such **vibration monitoring firms and consultants do virtually all their work for construction contractors**. On this page, I'll try to give you some sense of whether these claims can be taken literally or *cum magno grano salis* (with a very large grain of salt). The goal of this page is to place construction damage, and representations about it, in a more complete scientific context. Many of the topics here are discussed with greater detail in later pages of the CVDG.

Vibration Damage and its Causes

Although structural damage associated with construction can, and does, occur, many times the apparent construction damage appears as "cosmetic" cracking in drywall or plaster and exterior surfaces such as stucco. Since such damage can also be caused, at least in principle, by settling, thermal cycling and normal aging, a few hairline cracks (under 10) in a house after construction is not necessarily indicative of construction vibration causation. Similarly, it is well recognized in the vibration literature that people are more sensitive to vibration perception than structures are to vibration damage. Another way of saying this is that perceived vibrations in a home may not cause damage. Finally, once people find cracking, they may begin to look more carefully for hairline cracking and other forms of damage that they might otherwise have failed to notice. Thus, simply becoming aware of such cracks or other damage during construction is not necessarily indicative of construction causation, *per se*. Indeed, all these arguments are often offered as damage rationalizations by contractors and experts.

That said, the experience of watching cracks form as a construction crew used a large excavator bucket to break pavement by pounding on it in front of my home convinced me that construction vibration damage is real. Finding damage of similar sorts in every home on my street which I examined, strengthened my view both that the construction was responsible and that damage is more common than one might think. Like many others, I was also told by the construction firm, its "experts" and the municipality sponsoring the work that "damage can't happen" in construction, without them offering me any reliable scientific evidence whatsoever supporting that view. Most of the people who made these statements had little or no scientific background themselves and, therefore, were not really qualified to make such representations. Because I'm a scientist by training and inclination, I decided to look into those assertions.

The Vibration Damage Literature

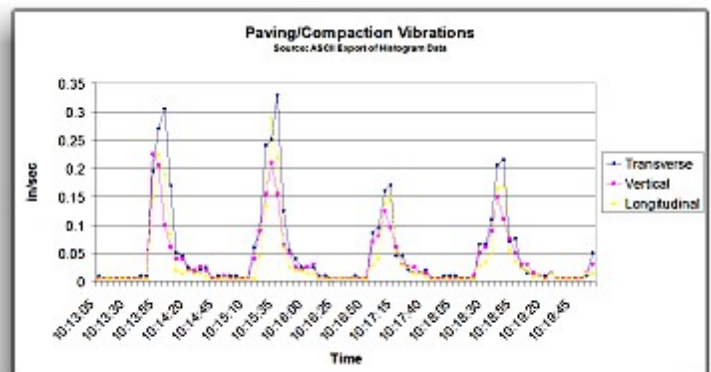


Much of the scientific and technical literature on vibration damage, as well as many of the vibration standards, is based on studies of damages due to vibrations from mine and quarry blasting. One commonly used vibration standard in the U.S., the Office of Surface Mining (OSM) standard is founded largely on the recommendations of the highly respected U.S. Bureau of Mines Research Investigation 8507 (USBM RI 8507) study. While the OSM standard doesn't entirely conform to all the recommendations of USBM RI 8507, it is widely cited not only in mining, but construction, because it sets very high limits on allowable vibrations. Thus, claims in the literature and on the Internet about construction damage are often largely or entirely based on the OSM

blasting standard. As discussed in USBM RI 8507, there has been a steady downward trend in vibration intensities adjudged as "non-damaging" and "allowable", as more research has been done.⁷ You can find links to download free copies of these and other standards and studies on our [More Information](#) page.

Mine Blasting vs. Construction Vibration

Mine blasting vibrations occur infrequently (perhaps a few times week at most) and produce vibrations which last, at most, only a few seconds. Construction vibration, on the other hand, can persist for minutes, hours, days or even months. As can be seen in the diagram, the paving vibrations (largely from vibratory compactors) from a real-life road reconstruction project remain over FTA standards for about a minute at a time in this example and there are four such episodes in just the 6 minute period shown in the diagram. Some vibrations recorded on the project lasted as long and were nearly twice the intensity shown here.

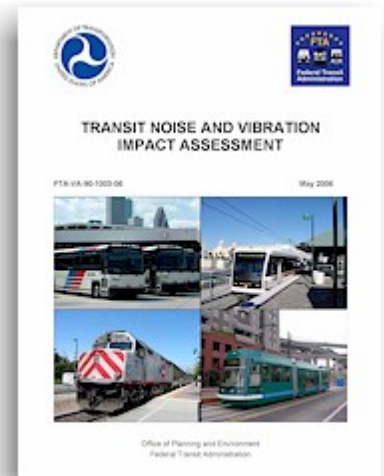


project remain over FTA standards for about a minute at a time in this example and there are four such episodes in just the 6 minute period shown in the diagram. Some vibrations recorded on the project lasted as long and were nearly twice the intensity shown here.

This difference in duration between mine blasting and construction vibrations is critical, since long-lasting vibrations can bring into play resonance effects, which are of far less importance in short-lived, infrequently repeated blasting vibrations. Indeed, USBM RI 8507 indicates this limitation of blasting studies explicitly:

*"Safe vibration levels for blasting are given in Table 13, being defined as levels unlikely to produce interior cracking or other damage in residences. Implicit in these values are assumptions that the structures are sited on a firm foundation, do not exceed 2 stories, and have the dimensions of typical residences, and that the vibration wavetrains are not longer than a few seconds."*² (emphasis added)

Thus, use of **blasting standards in construction settings** is **scientifically and technically questionable at best**. Use of the OSM standard, on which so many of the "damage can't happen" assertions are based, is clearly unsupportable in construction vibration damage evaluations. It is based largely on some of the recommendations of USBM RI 8507, which specifically disclaims applicability in a setting with semi-continuous vibrations. There are other, far more stringent, standards for construction vibration, which recognize this fundamental difference, perhaps most notably the one in the Federal Transit Administration's *Noise and Vibration Manual*.



Heavy Equipment Concerns



Although mining vibration standards are inappropriately employed for setting allowable construction vibrations, even those lenient standards can be violated by some construction operations. In particular, **pile drivers are known to produce vibrations in excess of the OSM standard.**³ Widely used **vibratory compactors, like the one at left, often exceed all the FTA standards, as shown above.** Indeed, the FTA specifically advises against their use, "Avoid vibratory rollers and packers near sensitive areas."⁴ Thus, any use of these kinds of equipment in populated areas should be viewed with concern for the vibration they produce.

Science and Opinion

Not every construction job causes vibration damage, even if vibration is felt and makes nearby residents feel uncomfortable. However, some construction jobs do result in damage, in most cases, predictably so. Damage usually occurs because the contractor has violated equipment use instructions, used the wrong equipment in the wrong areas, didn't understand or didn't care about applying relevant vibration standards, or was given poor quality vibration data or poor advice about it (or some combination thereof). **Scientifically valid conclusions must be based on reliable data, thoughtfully interpreted**, not pre-conceived or pre-ordained opinions, which, in some documented cases, ignore the data entirely. **Blanket statements to the effect that "damage can't happen" should be viewed with inherent skepticism, in the absence of reliable scientific data and properly applied vibration standards supporting those statements.**

While people are entitled to their opinions, unsupported opinions cannot, and should not, be taken as scientific fact - especially when they fly in the face of extensive scientific evidence contradicting the basis of such opinions. Even representations of large amounts of "experience" with construction vibration evaluation do not, by themselves, prove that damage can't happen in a given set of construction circumstances. If anything, such **poorly supported, pre-conceived opinions prove more about the mindset of the speaker than about vibration damage potential.**

Should I Pursue a Damage Claim?

It has long been recognized that vibration damage can inflict an unreasonable burden on homeowners near the source of the vibrations.⁵ You (and your attorney, if one is involved) should not let statements on the Internet, representations by contractors or their insurers, or even those here in the CVDG, decide whether you pursue a claim. Instead, that decision should include considerations of the dollar amount of your damage, the quality and quantity of your causation evidence, your ability to finance a litigation and your own willingness to commit the time and put up with the hassle of pursuing a legitimate claim. Whatever course you settle upon, it should be based on the facts which you can prove, not on the uncritical assertions of those who may not understand (or want to understand) the science of vibration damage as applied in your situation or those who may have a conflict-of-interest in rendering an unbiased opinion.

1. USBM RI 8507, p. 3

2. USBM RI 8507, p. 58

3. Federal Transit Administration's Noise and Vibration Manual, pp. 12-12 - 12-13

4. Federal Transit Administration's Noise and Vibration Manual, p. 12-14

5. *"At the same time, environmental control agencies responsible for blasting and explosives need reasonable, appropriate, and technologically established and supportable criteria on which to base their regulations. Finally, neighbors around the mining operations and other blasting, as shown in figure 1, require protection of their property and health so that they do not bear an unreasonable personal cost."*

USBM RI 8507, p. 4

Pre-Construction



To the extent possible, the safest approach to impending construction is to try to avert any possible damage before it occurs. This is far less time-consuming and expensive than it is to get damage reimbursed and carry out the repair. This page gives some tips about how you might get ready for significant construction planned in your area.

Pre-Construction Documentation of Your Home

If you are aware of planned construction in your area, i.e. within about 500 yards of your home, take an hour or so and document on video the pre-construction condition of every room in your house, the exterior and any other structures on the property. Narrate the video with the facts of the locations seen and whatever other information you believe is important. If you don't have a video camera and can't easily borrow or rent one, photos can also be used for this purpose, though you will have to have an accompanying written log detailing the locations of the photos, etc. If damage occurs, these records will **greatly** strengthen your claim that the construction is responsible for it. Such a record can also have the side benefit that you will also be providing **evidence of the contents of the house** in case of a fire or other insured loss. Just make sure you videotape or photograph the walls, door frames and other elements of the house structure while you are also recording the contents. Once you have recorded the condition, transfer it to DVD (if possible) and place the DVD and the original tape or photographs in a safe place outside the home, where you can get to it in time of need.

Web Site Project Information

Many infrastructure projects (roads, water mains, etc.) are funded by governmental entities (towns, cities, states, Federal government). These days, virtually all such projects are announced in some form on the web site of the sponsor. Such announcements may take the form of Requests for Proposals (RFP's), public comment meeting announcements, minutes of governing body meetings and others. You can often find what you're looking for fairly quickly just by searching the site for the name of your street and nearby streets. When you become aware of work ongoing or planned in your area, one of the first things you should do is **visit the web site and find out everything you can about the project** as it is intended to be done. **Print the pages so that you have a permanent record**, making sure that the prints show at least the URL of the pages being printed and the date printed.

Information which you may need from the site includes: a copy of the RFP and/or contract for the work (if available online), planned time of the project, traffic control measures intended, expected notifications of nearby residents of interruptions in water and other services, dates and times of public comment meetings, source of the funding for the project (state, local or Federal) and just about anything else you can find. The contractor may cite the availability of this information, but will be less thrilled to talk

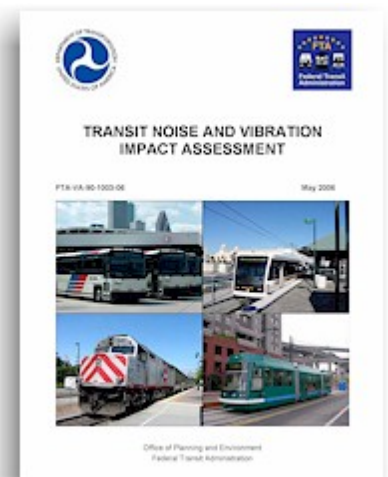
about any examples where it violated the rules and plans laid out on the site. If the contractor has a web site, you should find and check this out, as well. If either web site has a comment section about the project, make **factual** comments about your concerns and keep a hard copy of your comments.

Pre-Construction Meetings

Most governmentally-supported construction projects are announced in advance. The public is often given a chance to comment about the upcoming work, both in writing and orally in meetings prior to start of work. Of course, you will not know in advance if you will have damage, but you would be well-advised to attend such meetings, voice concerns and ask questions related to the vibration potential of proposed work. These meetings are announced in the legal section of the newspaper and may also be publicized by flyers or on the web site of the sponsoring entity.

Such public meetings may be **videotaped**; if so, make a note of it. If not, and you have specific concerns, you may want to do so yourself, unless forbidden to do so. Take **written notes** of the names and topics discussed by every speaker or questioner, unless you are video or audio taping the meeting.

In such a meeting, one would want to ask if any blasting was to be done, or if vibratory compactors, pile drivers or other equipment with significant vibration potential were intended for use in the project. The FTA *Noise and Vibration Manual* indicates that such activities could be problematic in "sensitive areas". If you have an older house with plaster walls, a historic home or any other concerns about **vibration sensitivity**, such concerns should be voiced at public comment meetings. You could download a copy of and take with you the FTA *Noise and Vibration Manual* to bolster any objections you may have.



It would also be wise to ask if any ground **vibration monitoring** is to be done in connection with the project, either prior to or during the construction. If there is no monitoring expected, ask why not. If monitoring is being done, find out when, where, by whom, and to what purpose. Your goal here is to ascertain whether any such monitoring will be done meaningfully and correctly and whether the information gained will be made accessible to the public.

You should inquire about what kind of "**pre-construction surveys**" are required or expected as part of the contract. If you are particularly concerned, it would be desirable to spend a little time on the Internet digging around to find out what you can about the contractor's record, and, if it has worrisome aspects (lawsuits, records of complaints, etc.), bring copies and broach the subject at the comment meeting. You might also want to find out how much **insurance coverage** the contractor is carrying for the job and who is the contact at the insurance company for the contractor.

Also ascertain the **responsible person** at the sponsor for the upcoming work. The goal here is not to find out how to file a claim, but to determine who to contact in the event of problems. If there are problems, you will not want to spend hours on hold

waiting for someone willing to admit some responsibility. Get contact numbers and names. Find out what the process is for making any complaints or comments about the work after it starts.

Another important aspect is to learn how the sponsor intends to supervise the work; will there be an occasional "look-see" or will someone representing the sponsor visit the site(s) on an everyday basis? The better the **supervision**, the more likely it is that things will be done correctly, without damage. Note that there is no guarantee that, no matter how many concerns you raise, the sponsor will pay any attention to them. However, your position will be strengthened immensely in a damage situation, if you have a record of having voiced concerns/objections at public comment meetings.

To the extent possible, you will also want to ask about the **requirements of the construction contract**, including expected dates and times of work, whether work will be done on weekends, etc. In most cases, the construction contract will already have been let; the winning contractor bidder may be represented at the meeting. While individual entities will have their own contract provisions, many will incorporate by reference the *Standard General Conditions of the Construction Contract of the Engineers Joint Contract Documents Committee*. This is a widely used boilerplate document which has many provisions and lays out many responsibilities for the contractor. You have to pay to get a copy, but, because so many contracts incorporate it, you can usually find a copy for free on the Internet as part of a published contract, if you search for it by name. It would be useful to know if this has been made a part of the contract for the proposed construction; if so, you should get a copy of the whole contract, including addenda and attachments.



Proper Perspective

Keep in mind as you ask your questions that no damage has been done to you or your property yet and none may ever be done. Make sure your tone is friendly and **non-challenging**, even if you have to be persistent in getting your questions answered. Make it clear that you are just trying to understand what will be done and what consequences can be expected from the work. Chances are that the contractor and the sponsoring entity are simply trying to do a professional and timely job, while taking into account the rights and comfort of homeowners.

Of course, once construction starts, your hard work in getting your questions answered may come to nothing, if the contractor is determined to cut corners, ignoring the people affected by their work. At the very least, you will have documented things in case you have to get work stopped or moved - or if something more serious happens.

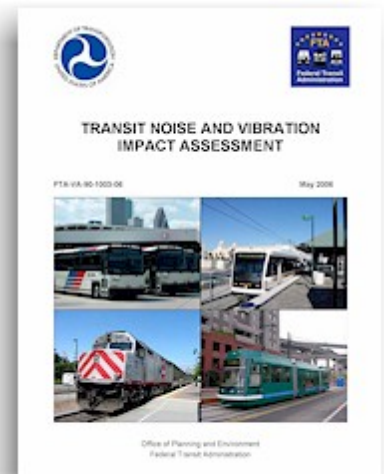
Vibration Potential



Most construction procedures can create vibrations which can be felt, if one is sufficiently close. However, not all are of equal concern. **Felt vibrations will not always cause damage.** On this page, I summarize typical road construction operations, with comments from my experience on their likely potential for causing vibration damage. Since other kinds of construction involve many similar uses of the same types of construction heavy equipment, one can apply this information in other areas of construction, as well.

Construction Operations and Vibration Potential

Those operations of the most concern are **bolded in the list below**. I try to differentiate those operations which may produce felt vibrations from those which may produce damaging vibrations. Note that this list may not include absolutely every kind of operation involved in road demolition and construction, or construction generally. Some items of lesser concern could produce damage if **inappropriately performed or if your house is particularly close to the work**. Indeed, some such operations are known to have produced many vibrations in excess of the FTA standard (see below). This list is provided **for those who may want to plan for documenting certain activities** around their home during construction operations.



- **Pavement breaking** - This operation, if done correctly with the correct equipment, is usually not a cause for worry. Most commonly, pavement can be "rolled up" by getting under it with a loader or excavator bucket and raising it (e.g. photo at right). This operation generally produces relatively little vibration. Other types of pulverization/cutting equipment (e.g. Wirtgen pulverizer) can also be properly used without much concern for excessive vibration. Even a specially-designed excavator attachment can be used to roll up or break pavement without significant risk. However, there are **other, generally non-approved, methods which can cause very large vibrations and damage**. I have personally observed and documented on video the repeated use of a large excavator standard bucket to pound on the pavement to break it on multiple occasions. The effect of this was similar to being in a large number of moderate size earthquakes and caused widespread damage, to my home and many others on the street. The damage pattern from

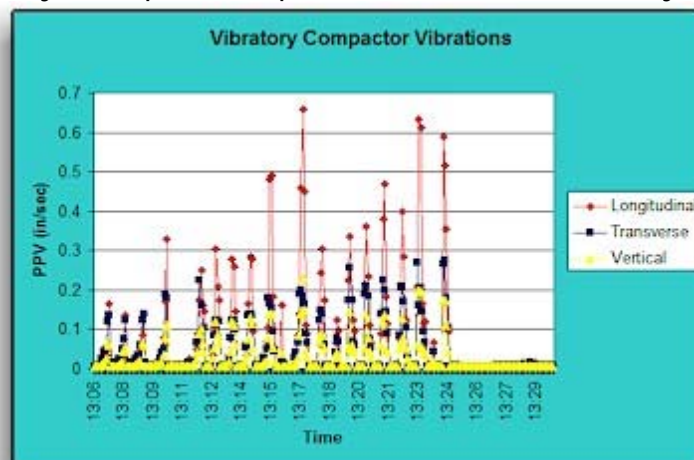


this pounding (multiple breaks in monolithic concrete 300 feet from the site) was such that it implied vibration intensities far in excess of any standard worldwide. Such a use of the excavator violates the Operator's Manual for the excavator in several places. I have also seen pavement broken by **picking large chunks of it up and dropping them on the ground** to break them. This also created felt vibration and documented damage.

- ✚ Pavement milling - This is a process by which pavement is ground off (see at right for a photo of a pavement miller in use) with rotating blades, rather than broken apart by impact. It usually produces a small amount of non-damaging vibration, which is normally of little concern.



- ✚ Pile driving - There are several different methods for pile driving. Impact pile drivers are known to cause large and potentially damaging vibrations. Vibrational pile drivers, despite the name, generally produce less ground vibration than impact pile drivers², although even they can be a problem if your home is sufficiently close.
- ✚ Excavation - Excavation can be done with backhoes or excavators. In our experience, excavation usually causes little vibration.
- ✚ Dirt moving - This can be done with a wide variety of heavy equipment. It usually produces little or no vibration or damage, if properly done.
- ✚ Pavement forming - This is the process of laying down the pavement. It involves a pavement former and trucks which provide a continuous supply of asphalt to the pavement former. In our experience, pavement forming or lay-down produces only minor vibrations, which do not generate damage.
- ✚ Compaction - There are two basic kinds of compactors, static and vibratory. Static compactors (i.e. those which merely roll the asphalt) have less damage potential than vibratory compactors. Vibratory compactors (at right), are more and more used with modern "supermix" asphalts, though they are not required for that purpose. They are designed to produce substantial vibrations, which can cause damage in our experience (vibration record of a small portion of one day's compaction operations at left). Vibratory compactors are of sufficient



concern that the Federal Transit Administration has advised against their use in "sensitive" locations, including residential areas.¹ As the diagram at left shows, the contractor violated FTA standards (starting at 0.12 in/sec for structures sensitive to vibration to 0.5 in/sec for reinforced, engineered structures) numerous

times during vibratory compaction at this and other locations. If you can feel vibrations occurring as a compactor approaches, chances are that it is a vibratory compactor. You will need to observe and document carefully the use of the compactor and any damage that may occur during its use.

- ✚ Jack-hammering - This procedure is often used in road projects, as well as many others. Surprisingly, the vibrations created are so localized that they can't normally be felt if you are more than 50 feet away.

- ✚ Heavy equipment movement - Heavy equipment is supposed to be transported any significant distance on trailers. However, we've observed and documented on video several instances (e.g. at left) where tracked heavy equipment was being driven on a city street for over a mile. That movement caused so much vibration that it could be felt a half block away. This may not be much of a damage issue for an undamaged, well-built, modern home, but might become one if the home is already damaged in some way or has some other properties (e.g. plastered walls) which make it more sensitive to vibration.



- ✚ Blasting - It is well-known that blasting vibration can damage structures to varying degrees. Indeed, much of the scientific literature about vibration damage deals with damage caused by blasting. Although blasting is usually done in mines and quarries and, to a lesser extent, in new road construction, it must be done properly and at sufficient distance from structures to avoid damage.

- ✚ Other operations - Grading, sweeping, concreting, curb installation, manual operations and a host of other activities can take place during road building or other construction activities. Although there could be exceptions in specific cases, all of these are usually of little worry, if carried out properly and in accordance with accepted procedures for use of the equipment.



If you have a problem with vibration damage, it is wise to **document on photos or video every kind of equipment used** in the work, with sufficient detail that one can read the contractor logo, equipment manufacturer and model number of the equipment used, all of which are usually readily visible on the equipment. The model number allows you to find online the specifications and, perhaps, the operating manual for the compactor. These will be helpful in understanding both vibration records (i.e. correlating the primary frequencies of compactor vibration with the vibration records) and the way the equipment was used in your area. They are usually available on the Internet free or for a small fee in PDF format from the manufacturer of the equipment. These can be an important resource in proving misuse of equipment.

1. Federal Transit Administration *Noise and Vibration Manual*, p. 12-14
2. Federal Transit Administration *Noise and Vibration Manual*, p. 12-12

Recognizing Damage







Although vibration damage to structures is usually split into cosmetic and structural types, understanding the types of damage which can occur, their causes, their implications and how to address them is essential to pursuing a construction vibration damage claim. On this page we'll give some tips, with illustrations, of **how to understand the various types of damage**. Many of these types of damage involve drywall or plaster cracking or other forms of distress for which you will have to look to note. In our experience, it is the rule, rather than the exception, that homeowners with construction vibration damage will feel they have no damage from the nearby construction, until they look for it with an eye to the specific and diagnostic types of damage that are discussed below.

Possible Structural Damage Indicators

Structural vibration damage is best evaluated by a civil or structural engineer with experience in viewing and evaluating such damage. If you make a claim, whether or not you have to litigate it, it's a good bet that the construction company or their insurer will want to send an engineer to evaluate the house for structural damage. Since that engineer works for the opposing side, you may or may not get straight answers, but you can express your concerns about specific types of damage and sites to the engineer for his opinion and evaluation. Eventually, you may have to bring in your own engineer.

While I am not trained as an engineer, there are some simple signs to look for that **might** indicate that you should have an engineer check for underlying structural damage: (Click each thumbnail to view the full-sized image)

- 
Cracks in the house slab or connected patios and driveways - These may not indicate structural damage; but, if they are not pre-existing, they are signs that should be discussed with an engineer in the context of structural damage to the house. **Cracks in tile or grout** can reflect cracks in the underlying slab. To the extent that the house slab and/or patios are monolithic pours (connected and poured at one time), information in the blasting vibration study [USBM RI 8507](#) indicates that such cracks result from vibrations far in excess of the U.S. standards³, if they can be traced to the construction. If your house has this kind of damage and you can link it to the construction, you can infer minimum levels of vibration, even if no vibration measurements were taken.
 
- 
Misaligned doors and windows - Misalignment can be seen by looking at the door in the frame. If the door doesn't show a reasonably constant spacing all the way around between it and the frame, it has become misaligned. Some doors may become difficult or impossible to open or lock, if the misalignment is large enough. Windows may become difficult to operate when misaligned. If you also see **diagonal drywall**


cracks at corners of window and door wall penetrations (see below), these are signs that the house has undergone **shear**, possibly due to vibration, which is causing the misalignment.

- ✚ **Plumbing problems** - If you suddenly experience plumbing failures underground (e.g. irrigation or waste line pipe shattered) or at the point where the house supply connects at the slab to the incoming line from the street, especially in the context of other vibration damage, it may be an indicator of possible structural damage. Problems with any other lines which go underground (heating, gas, etc.) may also indicate the possibility for structural damage.
- ✚ **Cracks in dry wall with vertical displacements** - Most cracks in drywall are considered as cosmetic in nature. However, if you have cracks in which one side of the crack is substantially higher than the other side, this could be a sign of underlying structural damage. Also, any crack in drywall in which the failure is not along a join between sheets but in the sheet itself, especially if it is jagged in appearance, indicates a possible underlying structural issue. (photo below)
- ✚ **Roof damage** - Shingled roofs will usually show little sign of damage from vibration to the underlying trusses, simply because the shingles can hide it. However, tiled roofs have penetrations which are usually sealed with concrete "cones". If these are broken, it could be a sign of structural problems. Usually breaks in the cones result in water leaks, which are also signs of potential structural problems in buildings with shingled roofs.

Cosmetic Damage

Many houses beyond ten or fifteen years in age will have a few (less than ten) hairline cracks along drywall seams and/or at drywall corner beads, due to slight settling, changes in temperature and humidity, or simple aging of the drywall. Most times, the residents of the house will not even be aware that these are present, because they are usually hairline cracks which are not easy to see, unless one sets out to find them. Once people find such cracks, they become more sensitized to them and look for others. The possible existence of **unseen, pre-existing cracks is well-recognized**, both in the scientific literature of ground vibration damage and by contractors. For this reason, you will almost certainly hear that your damages were all pre-existing and that you had simply not seen them in the past.

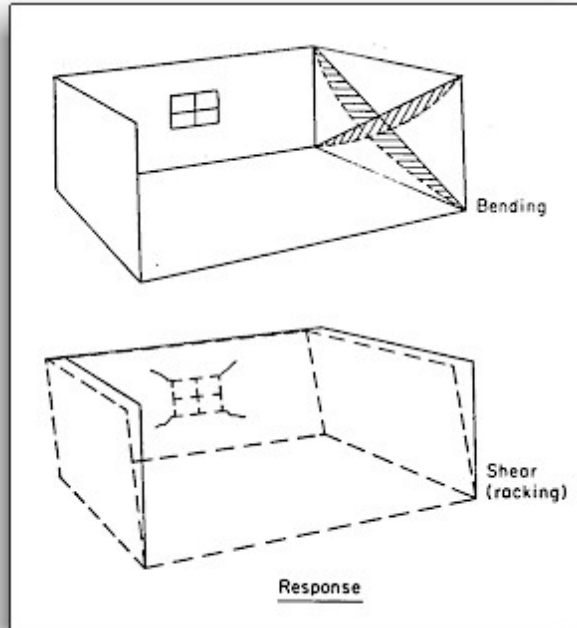
Because limited minor cracking can occur for reasons other than construction vibration, the timing of the damage is important in tying it to the construction. On the occasion of our damage, the witnessed **construction vibration in our house produced over 300 cracks, plus other damage, in one day!** Additional cracking appeared later.

When looking at your home for "cosmetic" cracks, here are some locations you should check and ways to begin to differentiate vibration cracks from settling (or aging) cracks:

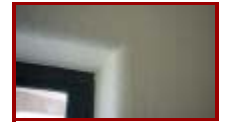
- ✚ **Linear hairline drywall cracks at corner beads and at sheet joins** - These are common in both settling and vibration damage. Mostly, they can be differentiated only by the timing of appearance and the number of cracks which appear in connection with construction. In my experience, vibration-related cracks tend to be longer and more numerous than those caused by settling. They also tend to expand with



time. Because settling and vibration cracks of this sort look so similar, documentation of the time and circumstances of their appearance is important.



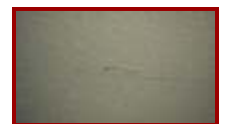
Diagonal cracks at corners of wall penetrations (windows, doors, etc.) - There are some characteristics of vibration cracks which settling cracks rarely share. While cracks at drywall corner beads and sheet joints can occur both from normal settling and from construction vibration, cosmetic drywall cracks from vibration often appear as cracks at the corners of windows and doors, running approximately diagonally from the corners. Corresponding cracks often manifest themselves outside in rigid finishes like



stucco. These diagonal cracks are due to the house being placed in shear (i.e. sections of the house moving differentially with respect to one another) by vibrations. These shearing vibrations are known in the field as **"racking" motions** (see diagram at left, reproduced from USBM RI 8507¹). They are different in nature and consequences from the so-called "mid-wall" vibrations ("bending") which lead to pictures rattling on vibrating walls, although racking and bending motions often occur together. Such racking cracks rarely appear house wide in normal uniform settling and are often indicative of vibration damage, especially when seen in multiple structures in a given neighborhood.

- Drywall nail or screw "pops"** - These appear as places where the mudding over the screw or nail is either raised, has multiple small radiating cracks or is missing entirely. If widespread and significant in number, they also imply shear forces, likely due to vibration.

- Cracks in drywall with vertical edge-to-edge displacements** - As discussed above, these cracks often appear in situations in which the house has been subjected to shear, due to vibrations. The vertical displacements (i.e. with one side of the crack substantially higher than the opposing side) are indicative of the shear process and may signify some shifting in the frame of the house.



- Damage to exterior finishes** - Just as vibration damages drywall, it will also usually cause cracks in exterior rigid finishes like stucco. Cracks in stucco running diagonally from wall penetrations are indicative of vibration-induced shear, just as they are in interior drywall.

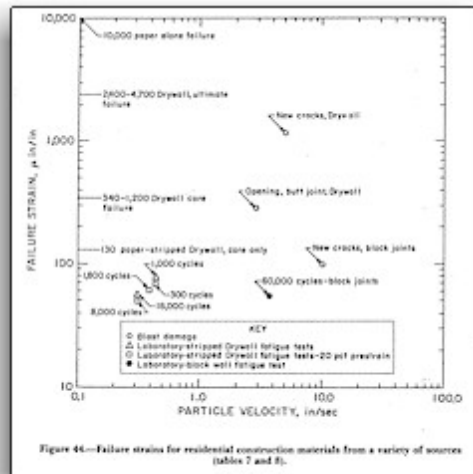


- Cracks in exterior property walls** - In the Southwest, exterior concrete block "tumbleweed walls" are common dividers at property lines. These are also often damaged by vibration. This damage can take the form of both cracks in mortar or cracks in the blocks themselves.





Cracking of concrete - Similarly, there can be cracking in concrete driveways or patios. As discussed in the USBM study, RI 8507, such cracks in the mortar or blocks can be good indicators of the intensity of the vibrations (see USBM RI 8507 diagram² at left), since it requires vibration intensities well above any standard in the U.S. to break mortar, concrete blocks or monolithic concrete.^{3,5}



The OSM also provides guidance on these matters in its *Blasting Guidance Manual*,⁵

"Concrete, particularly reinforced concrete, is very resistant to blast vibration damage. Cracks will not normally appear in concrete below perhaps 10.0 inches per second, a velocity that is not only far higher than OSMRE regulations permit, but that would normally cause undisputed and quite extensive cracks to occur to plaster, gypsumboard and brickwork. Damage to concrete is therefore normally accompanied not only by exceptionally high velocities, but also by other, and obvious damage." (emphasis added)

Indeed, we saw this kind of damage to concrete in multiple locations, accompanied by "obvious" damage in more than 600 (yes, six hundred) locations elsewhere on the property. If your house has this kind of damage and you can link it to the construction, you can infer minimum levels of vibration, even if no vibration measurements were taken. If the walls are painted or stuccoed, they can be good indicators of the presence of vibration and the timing of the damage, since old damage will usually show paint or stucco flaking at crack edges, while new damage will show fresh crack edges with no flaking.

The OSM *Blasting Guidance Manual* provides substantial advice, very similar to that offered here, for identifying damage and associating it with vibration events.⁴

Other Property Damage Causes

Construction may cause damage for reasons other than vibration, *per se*. Breakage of gas or water mains can lead to damage to property that will require fixing. If any excavation must be done on your property to further the construction (e.g. connecting meters to water mains), that is sometimes poorly cleaned up, if at all. If you have damage of these types, they should be included in your damage repair claim. This is, by no means, an exhaustive listing of all the kinds of vibration damage which can occur. Instead, it is intended as a starting point for those who may feel that they have construction vibration damage and want to know what they might look to find.

Continuing Damage

The types of damage seen here may continue to appear for many months after the construction ends. Most engineers will advise waiting at least six months before fixing any construction damage. The reason for this is that the adjustment of the

home to stresses placed on it by the vibrations isn't necessarily fully completed when construction or vibration ends. Thus, you may continue to have newly appearing damage after construction is finished. This doesn't mean the house is experiencing damage from some new source. It's just the slow resolution of the underlying stresses brought about by the construction vibration. In my case, it was over a year after construction end that damage finally **mostly** stabilized.

Talking with Neighbors

If you see significant damage appear suddenly during a construction job adjacent to or nearby your home, you should talk with your immediate neighbors about any damage they might have. If only one house is damaged, the construction contractor can blame the damage on the house or you; if several are damaged that argument gets increasingly difficult to sustain. Chances are, your neighbors will not have looked for damage nor will they know of any, so you will probably have to tell them what to look for in their own houses. The CVDG will help you and them know for what they should look. Your neighbors may also have a better idea of what was actually done during the construction if they are at home through working hours. Learning from neighbors and documenting damage in their homes is a critical issue which is discussed in more detail on our page, [Recording Damage](#).

-
1. USBM RI 8507, p. 18
 2. USBM RI 8507, p. 44
 3. USBM RI 8507, p. 45
 4. OSM Blasting Guidance Manual, pp. 121-122
 5. OSM Blasting Guidance Manual, p. 121

Recording Damage



Possessing a clear and unambiguous record of construction vibration damage and activities is critical to pursuing any damage claim. This page discusses some of the kinds of documentation that can be helpful. Note that **you will need as much documentation as you can get**, whether or not you have to litigate to get your damage covered. Indeed, you can reduce the chances of litigation if you have enough documentation of the right types. The recommendations which follow assume that you might have to litigate, simply because it may be much to your disadvantage to begin documenting only when you realize that litigation might be necessary.

Purpose of Documentation

Documentation has several purposes. First, it provides a clear record of the nature of the damage, the timing of its appearance and its progression with time. Second, it allows you to correlate the appearance of the damage with ongoing construction activities to help establish the causal link. Third, it provides a memory backup for a claim that may well take years to get resolved, especially if the damage is extensive. Fourth, it is necessary if your damage is so severe that you are forced to litigate the claim, although litigation should never be your first choice to resolve any dispute. **Without good documentation, your claim is virtually certain to be ignored.**

Recording Your Damage

You should begin recording the damage to your property the moment you begin to suspect that construction may be responsible for it. For many people, **photography or videography are readily accessible means of documenting the type and locations of damage**. I prefer high quality videography over photography, since you can document the location, time and extent of damage by narration on the video. Individual frames from the video can be easily extracted when still photos are needed. This video narration saves keeping a separate log of the same information for still photos.

To the extent possible, **your narration should be confined strictly to the necessary facts of the situation** (date, time, nature of activity, damage site, etc). You will not enjoy having any angry or sarcastic comments you make played at trial, if you have to litigate your case. If your camera automatically records date and time on the video, you need not duplicate this information by narration. You should **not** talk over construction-related noise, beyond any absolutely necessary narration of time, date and location. Ambient construction noise may turn out to be more important in a litigation context than your conversation.

When you record damage, **pay attention to getting clear images of both the damage and its context**. Close-up images are good for seeing details, but in a few months you

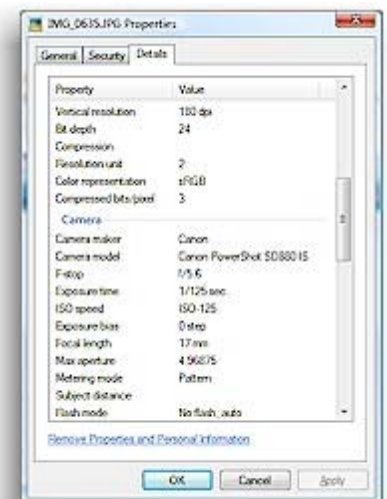
will have probably forgotten where, exactly, you recorded them. Images which allow you to place the location well are often not sufficiently detailed to understand the nature of the damage. Make sure you record at the highest resolution of which your camera or video camera is capable. In my view, it is best to use a camera which records at its full, uncompressed resolution. For photos, this means using the RAW format, rather than JPEG, and setting the camera to its highest resolution. For video, this means using a video camera that records at its highest resolution to digital or analog video tape, rather than one which records compressed MPEG files to an SD memory card. By its nature, compression of photos and video loses some information permanently.

Continue recording newly appearing or changed damage for at least 6 months after the end of the construction. Once the house has been stressed by vibration, cracks will likely to continue to form for some time after the end of the project. Document the new cracks as they occur, noting the date of appearance and any changes to older cracks that may accumulate with time. Since cracking will continue for some time, it is probably best not to attempt repair until the cracking and any other damage becomes stable.

Most people who have video cameras have some sort of video editing software (e.g. Pinnacle Studio, Sony Vegas); it is often included with the camera. Windows includes a limited capability video editing program, called Windows Movie Maker, as well. One of the most valuable things you can do with your video is to use it as a source of still photos by getting "frame grabs". Most video editing software will allow you to get these. You will also need editing software to create DVD's of your video for litigation production, if you have to sue. Having some really capable editing software also allows you to zoom video for better viewing and adjust the sound track to allow construction sound to be better heard over any extraneous noise.

Viewing and Using EXIF Data

Both digital cameras and video cams record automatically specific information in the saved files ("EXIF" - Exchangeable Image file Format - data) which include the camera used, the time the images were recorded (taken from the camera clock) and much other useful information. This information can be viewed in Windows Explorer (see example at right) or just about any video editor or image processing program. To view your photo EXIF information in Explorer, right-click on the file name, choose Properties, then the Details tab. This EXIF information is a good way to find out the true dates of recording of digital images, since the computer file dates may not reflect accurately the date/time of recording. Note that it is possible to remove the EXIF information in Windows; if photos or video are produced without such information, **you should question their authenticity.**



Damage to Neighbors' Property

The first question most people will ask about construction damage claims is whether there is damage to other nearby properties. It is a good bet that most construction companies will deny any such damage, whether or not such a denial is factual. In one case with which I'm familiar, construction company witnesses repeatedly denied under oath any other damage claims, until faced with written complaints from neighbors and records of past legal actions against them.

While **you should not make a point of trying to stir up litigation**, as this is never the best solution, you should make every attempt to inquire if your neighbors have noticed any damage to their property. Chances are that they will neither have looked for nor noted damage, so you should be prepared to tell them where and what kind of damage for which they should look, based on the type of damage you see in your own home. In my experience, even those with substantial damage will not be aware of it or, if they are, they will not be able to make a causal link to construction because they were not present during the construction hours. One neighbor was convinced that he had no damage from the construction vibration, then came back a half hour later to report that he had more than 50 cracks traceable to construction vibration; by the end of the construction, he had three times that number.

If your neighbors have damage for which they would like to seek reimbursement, they should **make a formal written complaint** to both the contractor and the sponsor or funder of the construction work. Written complaints cannot be ignored. They can be a great help in protecting the rights of the homeowner, because the existence of such complaints can be a subject of questioning of the contractor.

If the neighbors make such written complaints, try to get copies of them for your records. If you can get them to do so, it's not a bad idea to have neighbors write a document in their own words describing any vibration damage they have and how it might have occurred. Make sure they sign and date it, and, if you want to be really careful about it, have it witnessed and notarized. It may not be possible to use such a document at trial, unless the neighbor is willing to testify at the trial. Keep in mind that, because of possible disclosure-related decreases in their property values, **some neighbors will be unwilling to admit even obvious damage to their property**. For the same reason and, perhaps, others, neighbors may also be reluctant to support your attempts to resolve a damage claim.

If nearby houses go on the market during the construction or in the few months thereafter, that can be a perfect opportunity to examine those homes, especially before they have been prepared for sale. Since houses are often painted prior to sale, that painting will temporarily disguise some cracking in drywall. Ask for permission to photograph damage in neighbors' homes. Most will agree to that. Give them copies of the photos if they ask for them.

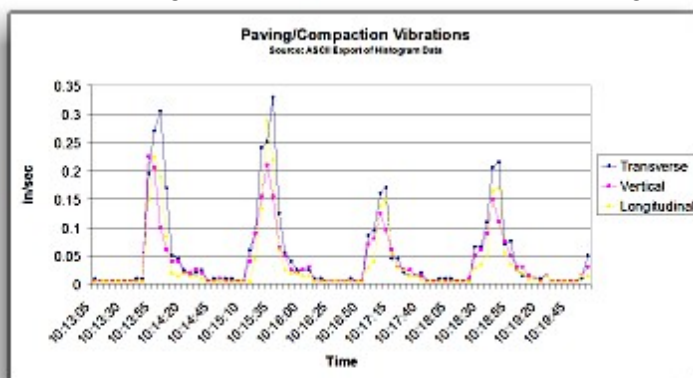
Your evidence of damage to other properties may or may not be directly admissible as evidence in a court case, but will strengthen your position in trying to settle your claim outside the court system. Also, having photos of damage to other homes in the construction area may force the defendant to seek a **motion *in limine*** to exclude all that evidence from the trial. Even if that evidence is excluded, the filing of such a motion will indicate to the judge that your claim is likely legitimate, given the

widespread damage. Having the trial judge recognize the credibility of your claim can be helpful in many subtle ways during trial, even though the judge isn't actually biased in your favor.

Documenting Construction

Just documenting the damage will usually not be enough to establish your claim. You need to **keep a record of as much of the construction activity as you can**, particularly any actions which you believe may be responsible for causing or worsening damage. It is amazing how much construction company employees can forget about their own actions, when it is in their interest to do so (and it often is). Again, videotaping is an excellent way to do this.

Most people cannot be watching the construction all the time, unless they have security cameras that can record full-time. Of course, such constant recording means you have a huge volume of video to sort through and, if it comes to litigation, produce



to the opposing side. If you can't record full-time, then you should try to record a representative cross-section of all construction operations, with particular emphasis on occasions and operations which you believe may have caused or worsened damage. If you feel vibrations in your building, that's usually a sign that you should record for the duration

that such vibrations persist.

Make sure that you get both close-up and perspective shots as you did in recording damage. **Recording the people carrying out the operations is just as important as recording the operations themselves.** In one case with which we are familiar, several construction people testified under oath that people in their company would "never" do things which they were captured on video actually doing or watching being done. **If you have to take a day or two of vacation from work to record critical operations (pavement removal, pavement and/or soil compaction, pile driving), it may turn out to be the most important time you will ever take off from work.**

In documenting damage, you should make every attempt to **avoid direct interaction with or visibility to the construction crew.** If you interfere with their activities or even if you simply make your videotaping or photography obvious to them, you could face a number of undesirable results. You are also likely to find that you will cause the crews to modify their activities for as long as they can see you.

If they know you have filed a claim, they may become outright hostile. In our situation, people on the construction crews that we had never met gave us **"the finger" on multiple occasions**, several of which occasions we captured on video. On another occasion, when vibratory compactor use was causing very large vibrations, a notification of the construction crew produced not only no reaction, but no acknowledgement of my presence, as recorded on video. These recorded incidents

made for an interesting comparison opportunity at trial when the contractor witnesses were talking about how much concern they had for the people living along the street.

Meetings, Phone Calls, Conversations

From personal experience, I would say that it is a good idea to videotape every meeting you attend with people from the opposing side which deals with the damage or construction. This includes visits by "experts" to view your damage, especially those hired by the construction company or their insurer. Chances are good that you will wish you had videotaped such meetings and visits, if you don't do so. Keep a record of exact times of these visits. Also keep notes on relevant incoming calls which include the caller, time and subject of conversation; call times are easily gotten from Caller ID, if you have it. These call records should go into your **timeline narrative** (see below).

Other Documentation

You should have more than just videotape and photos. These are extremely valuable, but you may see things that are not recorded. Also, if you have lots of images or video, it may be hard to locate specific information if you have to go through all the video each time you need some piece of information. If you have large quantities of video and/or photos, usually because you have a correspondingly large amount of damage, it's an extremely good idea to **go through all your video and images and "index" them in a database or spreadsheet**. This will save you an immense amount of time going through video to look for various events. With such a searchable index, it's "one and done". You should include in the index at least fields for date, time, location of item (DVD timing, file name, etc), a short description, a standardized set of keywords and a special field for comments. If you have lots of video, it will take you a lot of time to do this, but will save you immense amounts of time later when you need to find specific clips.

You should also start what I'll call a **"timeline narrative"** (see graphic at top of page for an example of the layout). In this narrative, you will record everything of interest (appearance of damage, construction activities, conversations, meetings, damage assessment visits to house, phone calls, etc.) that occurred on a given day, at least for the duration of the construction. **This narrative should be as factual as possible**, without any extraneous comments about the motivations, parentage or unsavory habits of those whose actions are recorded there. Don't worry too much about perfect grammar or spelling; the important thing is to have an independent record to supplement your video/photo records. You will find such a narrative invaluable in tracing events and damage. It need only be two or three paragraphs a day, but you should start it as soon as you realize damage has occurred and continue it for at least as long as the construction lasts in your area. Don't worry about recording every detail in the narrative; just indicate those matters that you see as important on that day.

Remember that any documentation you generate could be produced in litigation, so keep your comments and writings factual and to the point. Avoid speculation of any sort. If you don't know it as fact, don't include it in anything you write. Give your attorney a copy of the narrative for his own use; this will help protect it under the "attorney-client privilege" exclusion.

If you live in an earthquake-prone area, you will want to get complete records of

earthquakes for the area in the month or so prior to the damage appearance. These are easily obtained from the Internet. Such records will help address claims that your damage was caused by a minor earthquake, rather than vibration from construction. You may also want to get Internet weather records for your location for the period a month or so prior to the damage, to combat claims that high winds or temperature changes caused the damage. These largely spurious claims will be likely to disappear if you have the records, but could be problematic in pursuing your claim if you don't have them.

Safeguarding Your Documentation

Once you've gone to the trouble to generate and organize all this documentation, you certainly don't want to lose it to a computer hard disk crash, a fire or some other disaster. Chances are, you'll be sending some of the material, if not all, to your attorney, but you shouldn't depend on law firm employees being able to quickly find everything you have sent them. For most people, the simplest way of backing up critical digital data files is to write them out to a rewritable or read-only DVD. These days, most people have DVD burners in their computers, so this is readily available. Once a week or so, you should rewrite the DVD to include all new data information.

It is likely that one DVD will hold all your written data and images, but will certainly not hold all your video, if you have any significant amount. Video files are huge in their uncompressed state. For backing these up, an extra hard disk, either internal or external is the best medium. Once you have such an extra disk set up, you can use any backup software you might have (including that included with Windows) to regularly back up your video and other documentation. If you have an account with an online backup service, that's a good option, too. If you're generating a lot of data, daily backups are needed; if you're generating more moderate amounts, weekly backups should be fine.

If you file suit, you will have to **produce much or all of your documentation** in response to discovery requests. Video is best produced on DVD's, which use a "lossy" compressed MPEG format. What this means is that the DVD's, while adequate for viewing and production, will not have all the information in the original uncompressed video files (e.g. .AVI format). So, a **production of video on DVD's does not allow you to discard the original video files**.

Data, for example, photos, digital documents, scientific papers, etc., can also be put on CD-ROM's or DVD's. **You should keep exact duplicates of everything you produce, both in hard copy and as digital data**. These duplicates should be stored away from your home. You can send these data disks to family members for off-site storage or get a safe deposit box. If you need to store a few critical digital documents off-site, sending them to a GMail, Hotmail, or similar online e-mail service is a good option. Just **e-mail the documents to yourself as attachments** and the mail services will maintain the backups for you at no cost, at least to the limits of your allowed account storage.

I cannot overemphasize the importance to keeping up-to-date backup copies of all your information. If you get a production request for information which you have had, but have lost or cannot find, **you could be sanctioned by the Court** for destruction of the information (in legal terms, "spoliation of evidence"). Of course, you cannot use

anything you have lost as evidence; worse yet, any part of that evidence you may still have could be **excluded from the case**, because it is incomplete and, therefore, "prejudicial" to the opposing side.

Is That All?

I wish I could say that the answer is "no"; unfortunately, that's probably not the case. Each situation is individual, because the damages are unique to each structure, the people different and the legal jurisdictions as variable as the people. In general, the more damage you have, the more difficult it will be to reach a resolution and the more documentation you will need to support your claim. Of course, the larger your claim, the more motivation you will have to do that documentation. The documentation items mentioned here should give you a good start on what you will need.

Pursuing A Claim



How you pursue a legitimate vibration damage claim can involve the most important decisions you will make regarding it. Just about any fair resolution outside the legal system will be cheaper and faster than filing suit, unless your damage claims are large (e.g. over \$100,000), in which case you may be forced to file suit. **Legal action should be your last resort.** Below we will discuss some of your options in dealing with a claim.

Paying for it Yourself

If you cannot get the contractor or insurance (yours or theirs) to pay the repair cost, amounts less than \$10,000 are probably best addressed by proceeding with fixing the damage yourself and getting on with enjoying your life. Pursuing a claim can take years, hundreds of thousands of dollars, and immense amounts of your time, if you have to litigate. There is no guarantee that you will win at trial, no matter how strong your case or skilled your attorney might be. If you choose to pay for the damage yourself, you should still **inform the contractor of the damage immediately**. Taking such an action may help avoid minor damage turning into major damage, whose repair you might not be able to finance. Of course, you will be doing all your neighbors a favor too, by helping to prevent (additional) damage to their homes, assuming the contractor is willing to listen to you and act accordingly.

Amicable Resolution

Once you have **notified the responsible parties of the damage** in as timely a manner as possible, your next course of action should be to attempt a resolution directly with the contractor and/or its sponsor for the work. This is one reason why you need to notify the contractor as soon as you detect damage that you feel is construction-related. You should be open about the damage and allow inspection of it by any party with a legitimate connection to the contractor or sponsor. It may be wise to set some ground rules for those inspections. It is not in your interest either to maximize or minimize the size of the damage. Most houses and properties have a few hairline cracks or other slight damage existing before the construction start. Where those exist, admit them freely. Your goal is to arrive at a settlement which allows you to repair existing damage and stop further damage, not create extraneous arguments and defenses where none need exist.

Avoid threatening lawsuit, unless you are willing to carry through on the threat in a meaningful way. This will likely cause the contractor to involve their own attorney and will cause you to lose the moral "high ground". Once that happens, the chances of resolution without legal action decrease and your costs will go up accordingly. Instead, make reasonable requests that accurately reflect the nature of your damage. Keep in mind that it will cost the contractor or its insurance company at least as much to

litigate the claim as it will for you, so both parties have an interest in avoiding litigation.

If the contractor retains an attorney or has an attorney write you a letter discounting your legitimate claims or even threatening you, you are well-advised to begin conversations with an attorney of your own choosing, even though you may not retain that attorney immediately. **Do not talk with the opposing attorney and do not participate in any meetings or conversations with that attorney, unless you are also represented.** See another of the CVDG pages for more information on choosing and using an attorney to represent your interests.

Insurance Coverage

Of course, anyone who has dealt with an insurance company on any substantial claim knows that principle rarely enters into the company's thinking. Insurance companies make the decision to pay or deny claims strictly on the monetary issues and their estimate of whether you will be able to fight them or not. Before you approach or meet with any insurance company, yours or theirs, it's a good idea to know exactly what your policy says. Many homeowner's policies will have "earth movement" or similar exclusions. These exclusions were originally intended to eliminate coverage for earthquake damage, but can be s---t---r---e---t---c---h---e---d to exclude vibration damage coverage. You will want to check your policy for this kind of exclusion before you contact the insurance company. We are aware of two examples where the insurance companies involved denied construction damage claims, based on "earth movement" exclusions. One of them completely rewrote their policy at the next renewal to include so many vibration and movement exclusions that the policy basically insured nothing. This same company also denied coverage under an umbrella policy. If you can get your insurance company to cover your construction-related vibration damage, it will be faster and easier to handle that way, but that's a big "if".

Most large construction jobs are insured, both by practice and by contract requirement. It is likely that the contractor will refer you to their insurance company for your claim. Thus, the insurance company for the contractor will handle the claim. However, you will almost certainly be denied if your damage is significant. Then, the negotiation process will start. Your weapons are your damage, documentation and determination. If you are substantially lacking in any of these, you will probably have little success. Construction insurers are not used to paying any large claims and will fight doing so in your case, if you have more than minimal damage. **Be honest with the insurer, but don't assume that they are on your side or care anything about your problem.** Remember, they work for the contractor (if for anybody, but themselves), not for you. The insurer will only help you if they believe that is the cheapest course of action for them.

Litigation

Litigation is your last option if you cannot arrive at some reasonable understanding with the contractor or their insurer - especially if you have a lot of damage. Litigation is something that should not be undertaken lightly or in the absence of a good deal of supporting evidence. For more on the litigation process, take a look at our page, Involving an Attorney.

After the Claim



Once you have notified the contractor and the sponsor of your ground vibration-related damage, things will probably begin to happen fast, for at least a time. Here's a little of what you might expect and how you might handle it. **If you retain an attorney, inquire for direction and always follow it.**

Viewing of the Damage

Almost immediately after you report it, you will likely get requests for various people to **view the vibration damage**. The more extensive the damage, the more people who will want to view it or send people to do so in their stead. Chances are you will have to show the damage to representatives for the construction company, their insurer's adjuster, the sponsor of the work (usually a governmental organization) and their insurer's adjuster, one or more engineers and your attorney, if you retain one, at least. This can become very time-consuming, if there are many damage sites on your property, but it is to your advantage to have the damage as well-documented by as many viewers as possible. As this parade of people comes and goes, neighbors may start to ask about the reason for it. You may then feel a need to show them the damage as well. You can expect such viewings to continue occasionally for pretty much the life of your claim.

You should be both thorough and forthcoming in showing the damage you believe was caused by construction induced ground vibration. Make sure that you **cover every type and location of damage** of which you're aware, both inside and outside. Don't try to simplify it or save the inspector time by glossing over some of it. If the person inspecting the home doesn't see everything or doesn't care to do so, that should be their responsibility, not yours. If you haven't fully surveyed or presented the damage, state that fact to any person who views it.

Most viewers of the damage will take **photos and/or videotape** of their visit to the home. You must always keep in mind that these visitors are looking after their own or their company's interests, not yours. You don't want to allow these visits to turn into "fishing expeditions", where photos are taken of your dirty laundry, over-full closets or other items unrelated to damage which might be used against you. Along those lines, the house should be reasonably clean and uncluttered, to the extent that an acceptable amount of effort can bring that about. Unless you have damage in them, close doors to closets and rooms which are not in use.

One way to gain some control over what records are created in these visits is to prepare a document for signature by all visitors which **limits what can be recorded** and preserves your right to a true copy of any photos or video taken. An example of such a document, used by me, is available here. If you have created a video or photographic record of any sort, and you wish to provide it to those who view the damage, it is wise to keep a record of who obtains that video. Another document, on the same page as

the conditions document, is a **receipt for any video or photos** you may provide to visitors. We found these signed documents useful when various opposing "experts" and adjusters "lost" or simply refused to produce their photos and video. If you have retained an attorney before such visits begin, check this matter out with him/her.

Meetings, Phone Calls, Conversations

From personal experience, I would say that it is a good idea to **videotape every meeting** you attend which deals with the damage or construction. This includes visits by "experts", especially those hired by the construction company, to view your damage. Chances are good that you will wish you had videotaped such meetings and visits, if you don't do so. Exact times of incoming calls are easily gotten from Caller ID, if you have it and can use it to get the information before it is pushed out of memory by later calls. These should go into your timeline narrative at the appropriate locations.

If You Sue

Filing suit will multiply the time demands several times over. You will have interrogatories to answer, production requests to fulfill, and meetings with your attorney to attend. If you can't reach a settlement after the filing, you'll probably have to attend depositions (yours and others) and help the attorney get ready for them to the extent that you can and the extent that he wants help. More information on the legal process can be found on our pages, Involving an Attorney and Litigating.

Conditions Documents



This page has some possible conditions documents that might be used to control visits to view vibration damage and keep records of which parties receive what evidential materials. Without these or similar documents, representatives of opposing parties can significantly intrude upon your privacy under the guise of documenting damage. You can copy the text from them and modify them to suit your own needs and wishes.

The documents here and on linked pages should not be considered as attorney advice. If you have retained an attorney, check with the attorney before using these documents or ones like them.

Conditions and Limitations of Inspection Visit

This visit is intended on for the purpose of documentation of damage to the [Name] home at [Address]. Since legal representation for the [Name] may not be present, those viewing the damage must agree to certain conditions:

- 1) I do not possess a law degree of any kind and am not serving in a professional legal advisory capacity to any entity.
- 2) I will not create an audio or video record of the visit without express permission from the [Name]. In that event, the [Name] will record the visit on digital video.
- 3) I agree that photos will be allowed in any number, so long as they are solely used to document the damage to the house. I agree not to record other photos of any kind within the house or on the property.
- 4) The [Name] reserve the right to request and receive true and unaltered copies of any photos or other records made during this visit, either by direct request or through their representation. I agree to provide said copies upon request and within 14 days of that request.
- 5) I understand and agree that anything said by the [Name] during this visit is provided only for the purposes of information and understanding of the nature of the damage. It reflects the best understanding as of this date, but may not reflect future information or understanding that may come to light. Since new damage appears virtually everyday, the

damage seen and recorded on this date may not represent all the damage to the house, either on this date or in the future.

Printed Name: _____

Signature: _____

Representing (company, firm or entity): _____

Date: _____

Acknowledgment and Receipt

By my signature below, I hereby acknowledge receipt of DVD(s) containing video documenting damage to the [Name] home at [Address]. These DVD(s) are provided for the sole purposes of information and documentation. They are Copyright [Year] [Name] and cannot be copied or excerpted without the written permission of [Name]. Additional copies may be obtained, if necessary, by faxing a request to [Phone].

Please check for all DVD(s) received:

Part I _____

Part II _____

Part III _____

Printed Name: _____

Signature: _____

Representing (company or firm):

Date: _____

Involving an Attorney



Filing a lawsuit should be your option of last resort in addressing your legitimate vibration damage claim. Amicable resolution with the construction contractor is the best approach. If that fails, most jurisdictions either encourage or require mediation prior to a trial. You will need an attorney for the mediation, but the costs for that are minimal, compared to the cost of a full-blown lawsuit. You may not have any option regarding an attorney, if the construction company or their insurer involve their own attorney. Following are some considerations in choosing and using an attorney. For some information regarding what to expect in the litigation process, see our page Litigating.

Should You Retain an Attorney?

It can easily cost \$200,000 or more in legal costs (attorney fees, expert witness fees, deposition transcripts, court fees, etc) to pursue a construction damage claim through trial to verdict. You can still lose at trial, often for reasons which have nothing to do with the extent of your damage, the legitimacy of your claim, the strength of your evidence or the performance of your witnesses and attorney at trial. A "relatively small" claim under \$10,000 or so cannot justify the cost of litigation. If your claim is significantly larger, you may want to talk with an attorney, as much to understand the environment for litigation in your area as to evaluate your claim and its likelihood of success in a lawsuit.

Because construction companies are sued with some frequency regarding damage claims, they or their insurers have experienced legal teams to defend against such claims. This is one reason why you may have difficulty finding an attorney who will take such a case on a **contingency basis** (i.e. where you only pay "costs", not attorney fees, unless you win a settlement or at trial). Thus, you may have to pay the legal costs from your own pocket. **If you don't have that kind of money, justice may not only be delayed, but denied. Construction firms and their insurers assume that they can run out your funds and will do just about anything to stretch out the course of a lawsuit in pursuit of that goal.**

In a case taken on contingency, you still have to pay the attorney's "expenses" (expert fees and costs, court filing costs, supplies, etc.), which can run to \$50,000 or more in some cases. Even if you win a case taken on contingency, the combination of the attorney's fraction of the judgment, plus the costs, could wind up with him taking more than half the award. This is the reason that winning plaintiffs in contingency suits sometimes end up suing their own attorneys, because the attorney's share ends up being more than the plaintiff's.

When to Get an Attorney

You may find that the decision to get an attorney will be made for you. The contractor

or their insurer may involve their attorney immediately in an effort to intimidate you. You can proceed for a short time without a formal retention agreement with your attorney, but it is wise to begin talking with one the moment that you learn the opposing side is using an attorney. That way, you can get some basic advice on handling interactions with the opposing side until you become convinced that retaining the attorney is necessary. Another reason to involve an attorney might be to protect critical documents which you have prepared from production to the other side in the discovery phase of a lawsuit. Just about anything prepared for your attorney is protected by "attorney-client privilege" and is generally not subject to production or questioning.

Even if the contractor doesn't involve an attorney, you may find it necessary to get one in order to have your claim taken seriously. If you get the sense that the contractor or insurer simply wants to view the damage and talk with you to help prepare their defense, rather than trying to resolve the issue with you, it is probably time to talk to an attorney about your claim. **Keep in mind that there are often statutory limitations on the length of time after the damage is done that you have to file a tort (i.e. civil) claim notice with the contractor and, especially, with any responsible governmental entities.** You should discuss with an attorney what these are in your jurisdiction, so that you don't lose your rights to file a claim.

Also recognize that governmental entities are protected to a greater or lesser degree in various jurisdictions under the "sovereign immunity" doctrine. Usually, state laws set the conditions under which you can sue the state or a municipality in that state. Often, **states and municipalities will invoke sovereign immunity to avoid liability.** This issue will be decided by a judge, not a jury, since it is a matter of law, not fact.

Should Your Case Be a Class Action?

If a large number of other homeowners in the area of the construction have documented damage connected to the construction, you might be inclined to consider a "class action". Class actions are sometimes referred to as "welfare for attorneys", because the attorneys can make many millions of dollars, the named plaintiffs a little money and everyone else in the class virtually nothing. Class actions take much longer to resolve than individual actions and must be certified by the Court. In my view, a class action is not a good idea for most homeowners with construction damage, for many reasons which I will not try to document here. If you believe a class action is something you might want to pursue, talk with your attorney at some length before you move forward.

Choosing an Attorney

Ideally, you would choose an attorney with knowledge and experience in pursuing ground vibration-related construction claims and some acquaintance with the likely counterarguments. Unfortunately, such attorneys are not commonly available anywhere. You can use the Internet to find attorneys with that experience and knowledge; if you're lucky, one of those can try cases in your jurisdiction. Of course, you can bring one in from out of state, but that will increase your costs accordingly. Further, unless you have scientific background that would allow you to educate a local attorney yourself on the scientific and technical issues, you will have to pay an expert

to do that same job, just to get the attorney ready for depositions and trial.

One very important question you should ask when interviewing an attorney is whether or not he/she has any **conflicts of interest** in pursuing a claim against the construction company and/or the sponsor of the work. Conflicts of interest are common, especially in smaller cities and towns, since a qualified attorney may have worked with or know some or all of the people on the other side. The attorney should tell you about possible conflicts without prompting, but don't leave it to chance. Note that any prior acquaintance or work with the opposite side is not, necessarily, a matter for disqualification. If the attorney indicates a conflict of interest or the appearance of one, ask for more details so that you can judge whether the attorney's conflict is something that would affect your situation.

If you have to go to trial, you will be working with the attorney for years, so choosing one you respect and can work with well is important. My personal view is that you **don't** want an attorney who has too much of the fighter in him, despite what legal ads on TV might lead you to believe. Fighting instinct can be good, but may not be so constructive in finding a fair settlement. **Choose an attorney who is smart, has a good reputation in your community for honesty and integrity, and believes in you and your case.** Such an attorney will fight for you, but will not turn every issue into an unnecessary fight.

Don't be too concerned about differences in hourly rate quotes from attorney to attorney. A knowledgeable attorney can do things faster with less preparation than one with no specific knowledge of vibration damage claims. The "higher priced" attorney may actually save you money in the long run, if he has real knowledge and experience in the area.

Communicating with the Opposing Side

You should **never** speak with the opposing attorney or representatives of the construction firm without your own representation either present or aware that such a conversation is taking place. **Never** participate in a meeting, nor allow an opposing attorney to be present at any such meeting, without representation of your own present or aware of the meeting. Keep in mind always that, even if the contractor or its insurance company seems friendly and receptive to your claim, **you have no friends in the opposition.** You should be honest, friendly and reasonably open about your claim with the contractor or its representatives, but **don't volunteer any unnecessary information.** To appropriate a familiar caution, "Anything you say can, and will, be used against you in a court of law." If you have retained an attorney, follow his/her advice to the letter with regard to communications with the opposing side.

Working with the Attorney

Let the attorney do what he/she does best and **follow her/his legal advice.** Make certain that he understands the case as well as you do, even though it may take a while to accomplish that goal. Don't assume that, because you have an attorney, he/she can or will think through every possible avenue in carrying the case forward. If you have some suggestions, make them. If the attorney doesn't want to follow them, ask for an explanation that you can understand. **Find, provide and explain whatever supporting documentation and/or relevant scientific work that you can.** Doing so will save you

money.

If you're married, **make sure that your spouse understands the case as well as you do**. Your spouse likely will be deposed in litigation, or, at the least, asked questions at trial, and can hurt the case if he or she makes mistakes through lack of knowledge. As a general rule, the more minds and approaches that you can bring to bear on the case, the better your chances, so **use all the human resources available to you**.

In dealing with an attorney, keep in mind that **his time means your money!** Cases move slowly through the legal system, so, in most cases, you need not and will not hear from the attorney every week. Call the attorney only when necessary and have a list of topics prepared for the conversation so that you don't waste his time or yours. E-mail can be extremely helpful in communicating with your attorney, because you can use it to give him information, ask questions and send PDF-format documents without making trips to the office. E-mail also provides documentation and uses a minimum of the attorney's time. Your e-mails to the attorney should be just as concise and to the point as your conversations with him.

Finally, always remember that **your case is not the only one** the attorney is working on at any given time. Expect the attorney to forget facts or fail to understand some matters on the first recitation. Be patient and willing to repeat things until they are understood. **Remember, if a smart attorney has difficulty grasping what you're saying, a jury likely will have difficulty, as well.**

If your claim is large enough, you may well find yourself in a trial or preparing for one. You will want to think about and talk through with an attorney whether or not you have the determination, financial ability and the case strength to persist through that process. You will find that **your best friends throughout litigation are your honesty, personal integrity, and determination**. They will serve you well if you keep them uppermost in your mind.

Disclaimer: The Construction Vibration Damage Guide is not offered, and should not be considered, as advice on the law in any jurisdiction or form. Seek the advice of an attorney with construction vibration damage claim experience and knowledge, if you need legal help. Trademarks appearing in the CVDG are the properties of their respective owners and are used in the CVDG only for the purpose of identification.

Litigating



Litigating a Vibration Damage Claim

Litigating is time-consuming, expensive and frustrating, but may be your only option if you have substantial vibration damage. It can easily take years to get your case to trial. You may have to take the lead role in assembling the case, probably educating the attorney in the process. You will have to participate in (and pay for) depositions in the case. Expert witnesses will have to be located and you will have to pay for their time and travel, even if you find an attorney who will take your case on a contingency basis. The more parts of the case that you can do, the more money you can save in legal costs, so expect to spend a sizable amount of your own time assembling the facts and documentation for the case. This page has basic information about the litigation process, for those who may be unfamiliar with it.

Damages

There are two basic types of damages that you can seek in a tort (i.e. a civil wrong, not criminal charge) claim, **compensatory and punitive damages**. **Compensatory** damages are those that can be granted to reimburse you for your monetary loss. You will have to document that loss thoroughly with repair and other estimates. Even if you have documented the loss well, it can be expected that the construction company, their insurer, or their attorney will do everything in their power to minimize or call into question part or all of your compensatory damages claim. **Punitive** damages are separate from compensatory damages and can be awarded by a jury over and above compensatory damages. While I'm not an attorney, a layman's way of describing punitive damages is that they can be awarded only if the jury finds the defendant to have acted in a willful, disregardful, fraudulent or reckless manner (or, in some cases, all of the foregoing). An attorney in your jurisdiction would probably include some other, or different, descriptions as well. Thus, you can receive compensatory damages and not be awarded punitive damages. In most situations, you cannot be repaid for the time you invest in keeping down your legal fees nor can you obtain reimbursement of legal fees themselves. Punitive damages are about the only way you can get these items covered, at least in effect.

Filing Suit

These damages can be awarded at trial only after you have established that the Defendant was guilty of one or more **causes of action** named in your lawsuit. Causes of action are violations of law, propriety, normal concern, accepted procedure or contract terms (among others), which you can show were contributory to or causes of your damage. These are stated in your lawsuit as reasons for the suit, along with facts supporting the causes of action.

The lawsuit itself is usually written by your attorney. That said, you will have to

provide the attorney with a great deal of factual information to support the drafting of the suit. Once the suit is drafted, you must read it carefully, making any changes to wording you think are necessary to state correctly the facts. This is critical, because you understand the facts better than the attorney, even though you probably don't know the law as well as he/she does. You will have to live with every word in the lawsuit, so **make certain the lawsuit is factually correct in every detail**. In reading it, you may also find possible causes of action that have been omitted. You should discuss any of these you may find with the attorney.

Discovery

Discovery is a process by which each side finds out about the available facts in the lawsuit, after it has been filed. Discovery is time-consuming and expensive, but it can be helpful in resolving the suit before the expense of a trial. It is done through **interrogatories** (questions asked in writing to the opposing side and answered in writing under penalty of perjury), **productions** (providing requested copies of relevant documents, media and other potential evidence) and **depositions** (pre-trial testimony on the record to questions asked by the opposing attorney). Both sides carry out discovery, and it includes not only the litigants, but also any expert witnesses (see below) who may be called to testify by the litigants. There are often multiple iterations of each of these processes in the course of a lawsuit. It is often wise to file the first set of interrogatories and production requests with the suit, as a means of showing that the suit is serious in intent.

Because vibration damage claims have many special aspects, discovery in such cases must be done thoughtfully and thoroughly. Since discovery requests are usually compiled by the attorney, I will not include a listing of their likely contents here. The attorney should probably **enlist the aid of an expert** early in preparing interrogatories, production requests and deposition outlines, especially if the attorney has limited experience in such cases. The homeowner plaintiff should **review discovery requests** for completeness. Our *CVDG Professional* page, Production Requests, has a long listing of the scientific and technical requests that a plaintiff in a vibration damage suit should consider making to a defendant contractor and/or the sponsor of the work.

It is fairly common for one or both of the sides to make discovery demands that are well beyond the bounds of the lawsuit facts. This is often referred to colloquially as **engaging in a "fishing expedition"**. It is just as common to refuse some unreasonable, irrelevant, or even unsafe, discovery demands (for example, requests for your Social Security number). Talk with your attorney if you feel some requests to be "overly burdensome" or irrelevant **before** you produce them.

Just as you may refuse some requests, it is likely the opposing side will refuse some of yours for good, or bad, reasons. If the information sought is both relevant and critical, e.g. clearly missing vibration monitoring data and reports, and you cannot get them after multiple requests, you can file a **Motion to Compel** with the Court to force production of those items. If they turn up missing or destroyed after the Court rules in your favor in such a Motion, you can seek to have all that **testimony and evidence excluded** at trial and/or seek **sanctions** against the opposing side. If the evidence sought is important to both sides and hasn't been produced, **don't assume that it simply can't be gotten**; don't be afraid to fight to get it produced.

You and your attorney will need to **identify potential witnesses** in the case during discovery. These fall into two basic classes, fact witnesses and expert witnesses. **Fact witnesses** give testimony on the facts surrounding the case; they are not permitted to speculate or guess, give opinions, or relate information outside their personal knowledge and observation. Typically, a plaintiff will appear in the case as a fact witness. Other fact witnesses in a vibration damage case might include neighbors who observed the work or who have damage themselves, representatives of firms who have provided estimates for repair, and employees of the construction company, among others.

About Expert Witnesses

In essentially any litigation in which scientific or engineering issues appear, including vibration damage litigation, there will also be **expert witnesses** on both sides. Ideally, expert witnesses are people who, by training, education and experience, are qualified to offer knowledgeable scientific and engineering **opinions** that help to explain the case facts. **Scientific experts** will usually have a Ph.D. in a scientific discipline, plus relevant experience and/or training. A qualified scientific expert should have a **significant record of publication in the peer-reviewed scientific literature** (i.e. say, more than 10 publications), perhaps including a book or books. Ph.D. engineers are relatively rare, so an **expert engineer** may not have a Ph.D., but should have relevant experience and/or training, as well as publications in the peer-reviewed literature of his field. Your attorney will usually identify possible expert witnesses, though you can help if you are aware of some possible ones.

An honest, forthright and knowledgeable expert witness can be a great resource for you and the attorney in understanding scientific issues, preparing interrogatories and production requests, and getting the attorney ready for deposition and trial. A **good** expert can also be a huge help in pointing out weaknesses in and potential counterarguments to your case, at least in his area of expertise. A **bad** expert can do more harm than good for you, even if he toes your line to the letter. Chances are he'll cost you just as much or more money than a good one.

There are many people these days who may look like "experts" on paper and who may have expert witness experience. But, if you find they are reluctant to do actual work, have trouble understanding important elements of your case in their area of expertise, won't think about your case outside meetings with them, or simply seem untrustworthy, you should shy away from them. Just as importantly, an expert who is unwilling to disagree with you on scientific grounds, when he thinks you're wrong on some aspect of the case in his area of expertise, likely will not stand up to cross-examination by the opposing attorney.

You should be an active participant in meeting, talking with, and making a final decision whether or not you'll use a particular expert in your case. Make your decision based on whether the expert shows honesty, candidness, expert level knowledge as applicable in your case, a willingness to stand strong in supporting his opinions and an ability to help you and your attorney prepare the case, not necessarily simply on whether he appears to agree with you in every aspect. You should also consider how a non-technically trained jury might react to the personality of the expert, if your case

goes to trial.

Giving Testimony in Deposition and Trial

Giving testimony, either at trial or in deposition, cannot be described as "fun" or "easy" - a fact well known to me from a great deal of experience as a scientific expert and as a plaintiff in a vibration damage case. However, you need not fear the prospect of testifying. Your attorney will help prepare you to give testimony, both in deposition and trial. **Listen to and follow his advice. Prepare yourself well on the facts, so that you can give testimony with confidence and accuracy.** Giving strong testimony is both an art and a science. For more information on this topic, see the CVDG page, [Giving Testimony](#).

Trial

Trial is the culmination of those few cases which cannot be settled, usually because the damages are extensive and expensive to fix. Every trial has its own dynamics, largely dictated by the facts of the case. One of the most important trial-related events actually occurs before the start of trial in a so-called "***motions in limine***" hearing. Prior to this hearing, each side files motions with the Court to limit (that's the Latin *in limine* part) what testimony can be heard by the jury and/or what witnesses can testify. The judge makes legal, not factual, decisions on what gets into the trial and what stays out. What the jury gets to hear often determines the outcome of the trial, so considerable thought and work should go into preparing for these hearings, both on your part and that of your attorney.

After choosing a jury (a long topic in itself), the trial starts. The course of trials is determined by many factors, usually individual to each case. Plaintiff(s) present their case first and have the burden of proof. The standard of proof is a "**more likely than not**" standard in civil litigation, compared to the "beyond a reasonable doubt" standard in criminal cases.

One thing that homeowners with vibration damage should keep in mind is that **all trials have ebbs and flows and changes in "momentum"**. If you or one of your witnesses does less well than you expect, **don't get upset, especially in front of the jury**. Move on and, through the vehicle of your attorney's questions, present your case undeterred. Things which seem bad to you may not have been understood or simply completely missed by the jury. If you become upset by such things, you are, in effect, pointing out to the jury something to which they might have paid little attention. Your attorney will make whatever "repairs" are necessitated by the performance of any witness.

Expect that the opposing attorney will make some minor progress against you and your witnesses in cross-examination. He has had years to prepare and, **if all else fails, he can simply misrepresent the evidence during cross and close**. If that last statement sounds cynical, it is based on actual observation of many attorneys over the years in quite different types of cases, both as a scientific expert witness and as a plaintiff. That prospect means that you and the other witnesses must be alert to the possibility that some of the representations made to you in questioning by the opposing attorney are literally false. Prepare well and point out those misrepresentations, if necessary. Try not to react in front of the jury to testimony of others which you believe to be false, in error, or misrepresentative of facts. Your attorney will have a

chance in cross to challenge such testimony.

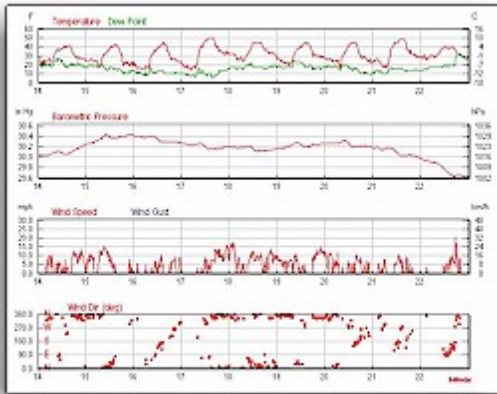
For those who haven't been through it, trial is incredibly intense and draining on all parties. The attorneys will often be working every night, sometimes through the night, preparing witness testimony scripts or cross outlines and meeting with the witnesses to go over direct exam scripts. You may have to prepare trial exhibits on short notice or answer questions late into the night, losing sleep yourself. In this environment, it is understandable if people get short-tempered and say things they wouldn't normally say. If that happens, write it off to the intensity of the situation and the stakes involved. **Try not to get offended or hurt and be as cooperative with requests from your attorney as you can.** Most trial teams have more than one attorney on each side; cooperate as much with your attorney's colleagues as you would with him/her.

Throughout the trial, try not to "bug" your attorney unnecessarily, but don't hesitate to help him in breaks with facts. On really important factual matters, you can send him an occasional note during testimony. Although some might disagree with this advice, I think that you should **let the attorney run the case** as he sees fit at trial. He may make some decisions that you might question, but he has probably thought through the implications of each piece of testimony and evidence, where you may not have done so. If you feel strongly about some issue, bring it up in a break, at lunch or after court.

This "brief" description can't do justice to all the dynamics of litigation generally or to the specifics of vibration damage litigation. It is intended to familiarize homeowners with some of the workings of the litigation process, based on my over twenty years of experience and over 50 occasions giving sworn testimony, both as a scientific and fact witness. If the advice of your attorney contradicts anything said here, **follow your attorney's advice and counsel.**

Disclaimer: The Construction Vibration Damage Guide is not offered, and should not be considered, as advice on the law in any jurisdiction or form. Seek the advice of an attorney with construction vibration damage claim experience and knowledge, if you need legal help. Trademarks appearing in the CVDG are the properties of their respective owners and are used in the CVDG only for the purpose of identification.

Counterarguments



Some contractors will try to explain away vibration damage, rather than explain it. This page has a discussion of some of the most common counterarguments that are made in construction vibration damage cases and some ways in which a homeowner might address them.

Some Possible Defendant Counterarguments

Small amounts of cosmetic cracking can arise from **slight settling**, ground movement, temperature and humidity cycling, and even, in extreme cases (hurricanes, tornadoes), wind loading. Hairline drywall cracks are often hard to see, especially if you don't make a specific effort to see them. It is at least possible that you had some cracking prior to the construction and didn't notice it. You are almost certain to hear one or all these arguments.

Since most houses more than, say, ten years old will have a few pre-existing (i.e. before construction onset) hairline cosmetic cracks in drywall, stucco, etc., be truthful about any **pre-existing damage** when asked, but don't volunteer any information of which you're not certain. Since most people know that houses very slowly accumulate some hairline cracks in drywall over the years, it will actually make your claim more believable if you acknowledge which cracks were caused by construction and any which were there prior to construction start. If you have photos or video of your house prior to the damage or if you've had a real estate agent in the house shortly prior to the damage, these can be used to address the "pre-existing crack" argument. Every kind of record of any sort that you can bring to bear will help limit or remove such arguments.

You can address questions of **wind loading and thermal cycling** by downloading all the weather records for your area in the month or so preceding your observation of the damage (see an example above), especially if damage appears suddenly while construction is occurring. You will want to try to establish, if possible, that the weather and associated thermal changes were within the bounds expected for weather in your area. Similarly, especially if you live in an **earthquake-prone locale**, you will want to get the quake records for your area online (see worldwide records from the USGS at right for an example).



You are also likely to hear implications that your house was **poorly maintained** and that such poor maintenance was contributory to or the cause of cracking or other damage. A good memory of what

you have done yourself or had done, along with receipts for such work, is your best defense against such assertions.

If you or one of your neighbors has an in-ground swimming pool, the argument might be made that the **pool is leaking** and the resulting softening of the ground is causing subsidence and settling of your house. Distances to the pools are your best way of combating this argument, if the pools are not on your property. These distances are easily gotten from satellite photos available with Google Earth, using Google Earth's Tools, Ruler menu command. In fact, it is likely that you will find satellite imaging helpful in a number of settings during the handling of your claim. If you have a pool, your water use records, which will reflect filling of the pool, may be helpful, especially if you have them for a long period of time prior to the construction.

If you live in an area characterized by limestone caves and/or sinkholes ("karst" or "epi-karst" topography), your home cracking may be attributed to sinkholes by the contractor or its experts. This affects a number of locations in the U.S., particularly places like Florida, where nearly all the immediately underlying rock is limestone. Sinkhole involvement can be addressed by a number of firms, who can do ground penetrating radar and other studies to confirm or eliminate the presence of sinkholes in the area underlying your house.

Contractors may perform vibration monitoring, before and/or after the start of work. Such **vibration monitoring** will be revealed to you only if you ask about it or if (some of) the data can be used to support the notion that the contractor "couldn't have done the damage". Thus, getting and analyzing complete vibration monitoring raw data are critical to the success of your claim, if monitoring has been done. You should seek to get **all** the raw data from this monitoring as soon as you become aware of it. "Reports" on the monitoring that have "**cherry-picked**" **partial data** and, all too often, **pre-ordained conclusions** will not be an accurate reflection of the full picture of construction-caused vibrations.

It is well-known in the vibration literature than **movements of people** in buildings can cause vibrations which are almost as large as those from construction. However, the kinds of vibrations that people cause (jumping, running, etc) are **highly localized**, while those from construction affect the whole house. If you have house-wide damage which appears suddenly during construction, as opposed to very localized damage, it is likely that house-wide damage was caused by something other than people in the house.

You may also hear implications or outright assertions that damage was caused by **passing traffic**, **supersonic aircraft** or just about any other conceivable activity. Good vibration monitoring data can be every helpful in addressing such assertions. Even if the data are poorly and unscientifically acquired, lacking any controls based on non-construction periods, you can still use lunch hours and break periods for the construction crews to get a good idea of baseline traffic vibrations. For most people the sonic booms of supersonic aircraft are infrequent and best handled as such.



When a litigant has few or **no strong arguments**, a standard tactic is to "throw everything against the wall and see what sticks". This basically means that you could hear many



different arguments and accusations, without much or any supporting factual basis. As an example, one counterargument that has been made in a case of extensive construction vibration damage is that **home exercise equipment** in the second floor of one part of a house could have caused house-wide interior and exterior damage, including to perimeter property walls on the opposite side of the property and cracks in the monolithic concrete slab at the opposite end of the home. Such an argument is, of course, ridiculous on its

face, but it illustrates the lengths to which people will go when faced with paying for damage.

This page can't have an exhaustive list of the counterarguments that might be made, but these are some of the most common ones that a homeowner should be prepared to answer in a vibration damage case.

Settlement



If you can arrive at a reasonably fair settlement of your vibration damage claim, it will save you time, money and untold stress and irritation. This page will discuss some of the aspects of coming to a settlement.

Handling Settlement Negotiations

I believe that most people should carry out settlement negotiations **with an attorney** on their side. Most attorneys do a great deal of negotiating and evaluating settlement offers. An attorney may well think of items for reimbursement that you may have forgotten and will be able to tell you what cost items may not be reimbursable, by law. Keep in mind that your attorney will probably be talking with the opposing counsel privately about your case. Give her/him a good understanding of your position and what you're willing to accept in the way of a settlement. That may increase with time as attorney fees mount.

Your attorney will also help you evaluate settlement offers, if they come. You're not required to accept them, if you believe them to be unfair or you have some other reasons to decline them. However, you should keep in mind a few things in making such decisions.

Considering Settlement Offers

First and foremost, **settlement is about money**. You might be angry and inclined to make someone suffer as much as you have. After all, principle **ought** to count for something, right? But, if it costs you more money in attorney fees to press the suit than the difference between your demand and the offer made, you have to ask yourself whether it's worth the legal costs and the continuing hassle. **Put aside your emotional responses** as much as possible. You will have to weigh all the money that you have, and will, put into pursuing your damage claim, versus what you might recover at trial, if you refuse an offer. Your attorney can help you evaluate the offer and your likelihood of recovery at trial. Remember that the opposing side will be making their own estimates of this sort, too.

Second, settlement has some aspects of negotiation, but it's not like negotiating at a garage sale or buying a used car; the sums are usually too large for that. You may have to refuse some offers to get anything even approaching a reasonable offer. There will likely be delays of weeks or months between offers, especially if your damage claim is large. Chances are that you will need to accept a certain amount of figurative "pain" to get a settlement, but, again, think of it in terms of numbers, not how much you would like to "get even" or "teach them a lesson".

Third, the best way to arrive at a fair settlement is to try to **put yourself in the contractor's shoes**. He will be inclined to disbelieve or discredit your claim, so you will

need to convince the contractor, insurer and their counsel that your claim is legitimate. If other homes in your area also have damage, the contractor may be concerned about the effect of a settlement in your case on claims made by others. Usually, your claim will be covered by contractor insurance; this means the contractor is likely going to have problems getting insurance for future projects at the same rate, if a settlement is paid to you.

Finally, the contractor/insurer has to see the settlement as operating to their advantage or there won't be a settlement. It isn't always clear what the best thing to do is in light of these and other facts in your situation, but you and your representation need to consider them in trying to work out a solution.

Mediation

Mediation provides another mode of resolving a case short of a trial. Most states require or strongly recommend mediation of disputes either prior to or after filing of the lawsuit. Mediation can be as effective or pointless as the willingness of the parties to resolve the claim equitably.

If you mediate your claim, it will usually be done by a professional mediator acceptable to both sides. Mediators are often retired attorneys or judges familiar with the litigation process. You are not required to settle the case in mediation, though, if you can do it, it will likely save you considerably on legal costs. The better your legal case, the greater the chance you have of a fair resolution through the mediation process.

Normally, each side prepares a statement of some sort of its side of the case, which is sent to the mediator to allow him to prepare for the mediation. That said, you should go to the mediation prepared to convince the mediator that your claim is both valid and fairly stated. Take whatever documents, photos, video and computer information you need to do that with you. You must give the mediator the tools to persuade the other side that settlement is in their interest. You can't try the case in mediation, but you should be ready to show the mediator your damage and how you connect it to the construction activities. This task may well fall to you, because you will probably know the facts better than your attorney.

Giving Testimony



Giving Testimony in Deposition and Trial

Giving good testimony is mostly about preparation and personal strength. Your attorney will help prepare you to give testimony, both in deposition and trial. **Listen to and follow his advice. Prepare yourself well on the facts and the most important documents, so that you can give testimony with confidence and accuracy. Since the attorney has virtually all the advantages, you must bring to bear your honesty, integrity and knowledge to maximize your effectiveness in testimony.**

Testifying in Deposition

In deposition, your goal is not to win the case, but simply to avoid hurting your credibility as a witness or your case strength. Your attorney will be there and can object to improper questions, but the deposition will be conducted by the opposing attorney. He determines what questions are asked. You must answer the questions, unless directed by your attorney otherwise. Your attorney may, or may not, ask you a few questions after the opposing attorney finishes his own. The deposing attorney may make objections to your answers on the record; **don't let such objections intimidate you or make you change your testimony.** Just stay on point and give your best testimony, no matter what objections may be made by either attorney. The opposing attorney will not only be asking questions, but gauging your believability and personality as a witness in trial. **You can help yourself toward a more favorable resolution by staying respectful and likable, but also strong, knowledgeable, smart, aware and composed.** Among other things, this means that you should review documents, video, photos and other evidence in the case before the deposition, so that you have a good command of the facts and confidence in your own knowledge of them.

At the beginning of the deposition, you will usually be asked if you are well and ready to give your best testimony and if there are any special accommodations you might need to allow you to give your best testimony. Some people, out of modesty or habit, may indicate they are fine, when they are not. If you have some health or other real issue, aside from convenience, **you should not hesitate to indicate any health issue** and what accommodations you might need. Typically, these will take the form of more frequent breaks, back support in the chair or other simple aids that will help you give your best and most accurate testimony. In a typical day-long deposition, there will be breaks mid-morning, for lunch and mid-afternoon. If you need them more often for some health-related grounds, request them at the beginning of the deposition, within reason. **If, for some health-related reason (e.g. illness), you need an immediate break, ask for one on the record.** If the opposing attorney refuses to grant it, the burden of responsibility for any mistakes you might make because of that problem is shifted to him.

In deposition and trial, essentially every word is recorded by a court reporter in the

"record". For this reason, never tell jokes or make statements which can be interpreted in more than one way while you are on the record, especially if the opposing attorney tries to engage you in such banter. If that happens, **just smile and say nothing**. Generally, you should **only speak audibly when asked a question**. At some point, usually at the end of the deposition, you will be asked if you would like to read and make corrections to the transcript ("read and sign"), when it becomes available. You should **never refuse this right**, as there are always a few mistyped or misunderstood answers, no matter how good the court reporter. Such misunderstood answers could come back to haunt you later, if you don't correct them.

Plan on attending all the depositions in the case. Opposing witnesses may be a little more careful about what they say, if they think you're coaching your attorney on the facts during the breaks. Indeed, there are few things more helpful to you and damaging to the witness than catching him or her in an important "misstatement" in deposition. Such a catch can knock the issue out of the trial or, at least, provide a credibility attack against the witness in trial. **Try to avoid reacting to things said** which you feel are misstatements or blatant falsehoods; take notes and, in the breaks, talk with your attorney about exposing them as falsehoods in subsequent questioning.

Testifying at Trial

Prior to a trial, you and your attorney will sit down together and work out a "script" for his direct examination of you. You will also have some indirect input into the scripts for testimony by others. Make sure that your attorney gets everything into your script that you feel is important, or explains a good reason for omitting it.

In **trial direct examination**, you will be trying to explain the facts of your case in a likable and understandable way. The jury usually doesn't want to be there - and may be inclined to blame you as the plaintiff for that unhappy state. Depending on what happens at trial, your attorney may ask you some questions which were not in the script or may delete some which were present. If so, don't get upset; it's a common occurrence. Just as you will have to adjust to changes, the attorney will also have to be **adjusting his script in real time** based on what you say, and how you say it, in your answers to his questions.

In **trial cross-examination**, the opposing attorney will be determined to put you and your claim in a bad light, or worse, often irrespective of the facts in the case. That's his job. Try to keep **your demeanor with the opposing attorney** as near to the same as possible to that you had with your attorney. **One important thing to keep in mind is that the opposing attorney will be asking questions phrased in such a way that he thinks he can both predict your answers and (mis)use them to defend his client.** Thus, few questions asked of you by the opposing attorney will be phrased in any manner that he thinks will allow you to state facts favorable to your case. However, all attorneys make small mistakes of which you can take advantage to forward your case, if you are alert and looking for such opportunities.

If you are a strong witness on the facts of the case, there is a good chance that your cross-exam will be mostly "collateral", i.e. about peripheral issues, not ones directly relevant. To prepare for such questioning, **carefully review everything you have produced to the opposing side before trial**. If you get a mostly collateral cross, you'll

be ready.



As a plaintiff, a homeowner in a vibration damage case will almost certainly be deposed. It may well be years between the time when your deposition is taken and the trial, so you should **review your deposition transcript just prior to trial**. At trial, it is very common for the opposing attorney to attempt to "impeach" (i.e. call into question) your testimony with your deposition testimony. **Witnesses should never take what the attorney is saying about deposition testimony in questioning as a fair or even truthful representation of it**. As a witness, you have a **right to see any deposition testimony** which the attorney is using against you on the stand. **Ask to see the relevant testimony, before you answer the question**, and take the time to read all the testimony on the topic asked about by the attorney. If the attorney refuses to let you see the deposition transcript and you don't remember **exactly** what you said in deposition, simply say you don't remember the specifics of what you said and ask to see it again. If the attorney still refuses, the jury will get the (probably correct) impression that he or she is lying about or misrepresenting your testimony.

Tips for Giving Testimony

Although trial and deposition testimony are somewhat different in aim, following are some basic rules for testimony that I have learned over the last 20 years from many top attorneys nationwide, much personal experience as a scientific witness and from watching other witnesses make mistakes:

- ✚ **Tell the truth - Don't even think about lying**, no matter how helpful you think it **might** be in your case. You are facing a smart attorney who will have been well-prepared over a period of years by lots of people. Lies likely will be uncovered and will call your truthful testimony into question. Of course, you will also be under oath to tell the truth.
- ✚ **Listen to the question carefully** - It's easy to misunderstand the question if you don't listen carefully. Such misunderstandings can hurt your case. If you realize later that you've misunderstood a question, use the first opportunity to straighten out the misunderstanding on the record.
- ✚ **Don't go beyond the question in your answer** - Opposing attorneys are often unintentionally helped by witnesses who go beyond the question by volunteering information for which they were not asked. **Keep your answers on point and as concise as truthfulness permits**.
- ✚ **Ask for clarification before answering, if the question is unclear or ill-defined** - Although you have less latitude to ask for clarification at trial than at deposition, make sure that the question you answer is the one you think you're answering. Attorneys will intentionally phrase questions in ways that have lots of room for interpretation - to their benefit. **Remove their "wiggle room" by getting the question, and your answer, as clear and specific as you can**. When needed, ask for clarification of date, time, location, circumstances, people involved, etc. before you answer.
- ✚ **Don't give "yes" or "no" answers regularly** - Attorneys will often demand such answers, but they are rarely fully factual or truthful. The correct answer is the one which truthfully states **only the relevant facts in the fewest words**, not necessarily the one demanded by the attorney. If the attorney demands a yes or no answer, ask for a clarification of the question in a way that it will allow such

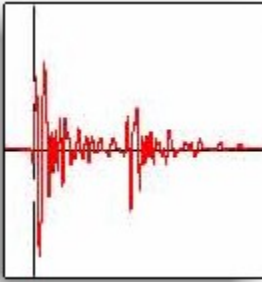
an answer. Don't be afraid to say that the question can't be truthfully answered with a yes or no, if that is the case. There are some questions which can be answered with a simple "yes" or "no", but they are usually a minority.

-  **Don't speculate** - If you don't know the answer to a question with certainty, just say so. Attorneys will often try to pressure you to speculate or guess; don't fall into that trap. If a question misstates actual facts in the case, simply point out that such a question misstates facts. If it is completely unrealistic, indicate that you can't answer the question meaningfully as phrased, because it misstates the facts so substantially. You may well be asked what facts the question misstates. This is a good opportunity to put on the record facts relevant to the question which are favorable to you. If the question is about a document or event of which you have no personal knowledge, simply say "I don't know".
-  **Be yourself** - All of us do our best when we handle things in the way that makes most sense to us. The opposing attorney has all the advantages, so don't worry much about it if you are shown something you're not expecting or if there is a line of questioning for which you're not prepared. Don't let one part of the examination affect your performance someplace else in the exam. Just move on and do the best you can. If something does go wrong, your attorney will give you a chance to rectify the situation, if it is really needed.

These suggestions on this page are offered to give homeowners an idea of what giving testimony as a plaintiff in a vibration damage case is like. There are some **additional considerations** for expert witnesses. **These suggestions should not be followed blindly against the advice of your attorney**, though I think the overwhelming majority of attorneys would support this advice in general, even if they might add or subtract some items on the list in your particular situation.

Disclaimer: The Construction Vibration Damage Guide is not offered, and should not be considered, as advice on the law in any jurisdiction or form. Seek the advice of an attorney with construction vibration damage claim experience and knowledge, if you need legal help. Trademarks appearing in the CVDG are the properties of their respective owners and are used in the CVDG only for the purpose of identification.

Vibration Monitoring



Vibration monitoring is the most commonly used method for identifying potential vibration damage problems pre-construction and addressing them post-construction. Most Federally-funded road construction projects require pre-construction vibration assessment. Individual states and municipalities may require no monitoring or monitoring only in connection with blasting done in the project. Properly done, vibration monitoring can be extremely helpful in understanding the nature of your damage and whether construction could have caused it. Improperly done, it can be worse than worthless. Since construction companies will sometimes present those with damage claims copies of vibration monitoring data or reports, this page will offer an overview of vibration monitoring and what can be learned from it.

Vibration Monitoring Instrumentation



A number of manufacturers make ground vibration monitoring seismographs, primarily for use in monitoring mine blasting, although they are also routinely used in construction vibration monitoring. Like earthquake seismographs, these detect and measure ground vibration by the movement of a magnet surrounded by a coil of wire. According to the Lenz Law of physics, a current is induced in the surrounding coil in proportion to speed

of movement of the magnet with respect to the coil (i.e. the speed of ground movement). Electronics then measure this current, convert it to ground motion velocities and store the raw data in memory. Each of the three directions at right angles to each other (longitudinal, transverse, and vertical) has its own separate measuring coil in the transducer head, since vibrations often differ in important ways along different measurement directions. Shown at left is a Blastmate III blasting seismograph, manufactured by [Instantel](http://www.instantel.com). The silver gray transducer head at the lower right of the photo, which does the measuring, is sitting on top of the loose landscape rock and connected by the visible wire to the blue recording box. It is the blue box which actually stores the data in its memory, much like a small computer. This instrument can also keep a paper tape backup record of the data as it is created.

Software for Analysis of Vibration Data

The data stored in the seismograph memory are downloaded to a computer for printing and analysis with appropriate software. In the case of the Blastmate III, the software for Windows is called *Blastware*, and can be obtained free from Instantel. Other

manufacturers of seismographs make similar software available for their products. Once the data are in the computer, the software can produce various "reports" that show the data in different, complementary ways.

Reading Vibration Monitoring Results

Since construction companies and the vibration monitoring subcontractors they hire have a vested monetary interest in finding that vibrations are non-damaging to structures, you may be the only person involved in a damage claim who will take the time to read and analyze vibration monitoring results carefully. You should make time to do so, or, better yet, ask a qualified scientist to read and analyze them for you. Some of the problems you should look for are detailed on the [Vibration Data Issues](#) page. Although the reports generated by software from the manufacturers of different seismographs will differ in both name and content, they will mostly show the same data in much the same way. I have prepared a page with more detail on what the vibration monitoring reports look like from the Instantel Blastware software, for those who would like to develop some familiarity with reading vibration monitoring data. These are based on data acquired with a Blastmate III blasting seismograph of the type shown above.

Analysis and Interpretation of Vibration Monitoring Data

Proper and careful analysis of vibration data is laborious and time-consuming, but essential. At right are shown just four of the over 50 pages of tables which I prepared, relating to the detailed analysis of a partial set of vibration data for one project. Each table looks at the same data in different ways and provides a view and analysis of different elements of the data. Virtually all of these views proved important in understanding what the data really said, versus what was claimed by the construction contractor and its vibration monitoring sub-contractor. For help in reading and understanding vibration monitoring data, read [Vibration Data Reports](#). For more on what to look for in analyzing the data, see [Vibration Data Issues](#). For detailed tips in analyzing the large amounts of vibration data generated in monitoring, see our *CVDG Professional* page, [Vibration Data Handling](#).

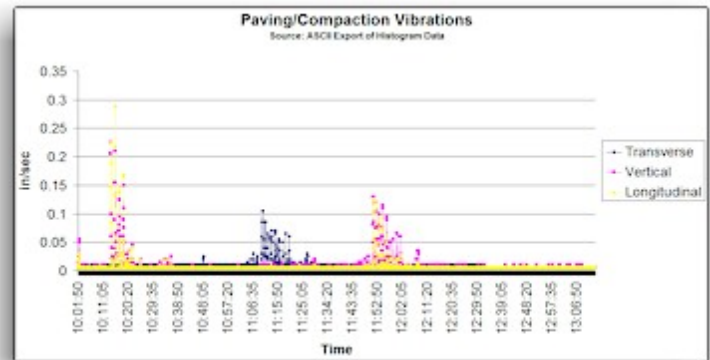
The image displays four overlapping tables, each representing a different analytical view of the same vibration data. The tables are densely packed with text, including numerical values, headers, and footers, typical of technical data reports. They are arranged in a slightly offset, overlapping manner to show multiple perspectives of the data analysis.

Standards and Their Proper Use

Even if vibration monitoring data can be read and understood, they won't be of much value in the absence of some independent, accepted means of linking them to the potential for causing damage. Because the mining industry has faced vibration damage claims for many years related to **blasting activities**, most of the data on structural effects of vibration, and standards for interpreting vibration data in that light, are based on **studies done by or for the mining industry**. Unfortunately, these blasting related studies and standards, while often used by construction companies and state agencies to justify their positions, provide little help in evaluating the potential for

damage from construction vibration caused by heavy equipment.

Fundamentally, the reason for this is that **blasting events differ dramatically from construction vibration**. Blasting at a typical mine or quarry occurs perhaps once every few days; it produces vibrations which last a few seconds at most (more typically, less than one second). On the other hand, construction vibrations can go on for minutes, hours, days or even months.



The diagram at right shows one of many examples where **construction vibration repeatedly occurred and persisted at levels above the FTA standard for minutes at a time**. This difference brings into play resonance effects and amplification phenomena which are far less prominent or completely absent in most blasting environments.

This fundamental distinction between blasting events ("shots") and construction vibration is explicitly acknowledged in USBM RI 8507, the basis for the frequently used OSM blasting standard:

"The damage probabilities realistically refer to numbers of homes being affected by a given shot rather than the number of shots required to damage a single home."²

"Safe vibration levels for blasting are given in Table 13, being defined as levels unlikely to produce interior cracking or other damage in residences. Implicit in these values are assumptions that the structures are sited on a firm foundation, do not exceed 2 stories, and have the dimensions of typical residences, and that the vibration wavetrains are not longer than a few seconds."³ (emphasis added)

Thus, use of blasting standards for non-blasting construction vibrations is ill-advised and scientifically questionable. Of course, even well-motivated contractors may simply not think about or understand these disparities. This is a long and important topic which is investigated further on a separate page.

Distance Makes the Vibration Become Lesser, But....

Vibrations die off with distance, although perhaps not as fast as most people would think. The lessening intensity with distance is the rationale behind what are called "scaled distance" calculations accepted and used by the mining industry to estimate vibration effects at distances other than those measured. However, simple distance calculations do not tell the whole story of damage potential.

As vibrations propagate through the ground, their frequency distribution changes from the typical broad spread of high and low frequencies to what are referred to as "**low frequency wave trains**" (see USBM RI 8507¹):

"Thick soil overburden as well as long absolute (as opposed to scaled) distances create long-duration, low-frequency wave trains. This increases the response and damage potential of nearby structures."

The frequency of the vibration wave trains is close to the resonance frequency of the house. At the resonance frequency, vibrations in the house grow with additional vibrations, rather than dying out. Thus, distant vibrations with resonant components can be more damaging than vibrations which originate nearby. Vibrations which may not be damaging close to the site of their inception, may become damaging at larger distances (typically, a few hundred yards for blasting vibrations), even though they are less intense at the greater distance.

For that reason, **having your house at some distance from the work may not guarantee vibration damage safety** nor can distance be used as a legitimate scientific argument against damage causation. In our own case, the largest single crack that we observed developed when the construction work was a block away, although the cracks and other damage became more numerous and widespread as work approached the house. As a rough guide, if you can hear the construction happening in the distance, there might be reason to worry, depending on what operations are being carried out and how they are being done.

Should I Allow Vibration Monitoring?

You may well get a request to allow monitoring on your property, or the technician may simply come onto your property without permission, as was done routinely in the case with which we are most familiar. You should think through whether or not you wish to allow vibration monitoring on your property. Your best aid in making such a decision is to find out as much as you can about any previous monitoring done on the project, prior to the request to you. It is probably wise to delay granting permission until you have seen and analyzed any previously generated reports and data, with an eye to the possible mistakes that can be made in vibration monitoring. A lengthy explication of specific problem areas in vibration monitoring can also be found on our *CVDG Professional* page, Vibration Data Analysis. Whether problems exist or not, delaying a decision on allowing monitoring is about the only leverage you will have in getting the data, short of filing a lawsuit.



If you don't allow monitoring, you may not be able to stop monitoring in the public right-of-way portion of your yard (i.e. that part of your yard bordering the street reserved by ordinance for street or sidewalk expansions). If monitoring proceeds anywhere in your yard or immediately adjacent to it, **you are highly advised to videotape or photograph each and every installation of the seismograph**, noting the time of installation and removal, to the extent you are aware of them.

Your record may well be the only reliable documentation of the way the work was done.

1. USBM RI 8507, pp. 5-6
2. USBM RI 8507, p. 59
3. USBM RI 8507, p. 58

Vibration Data Reports

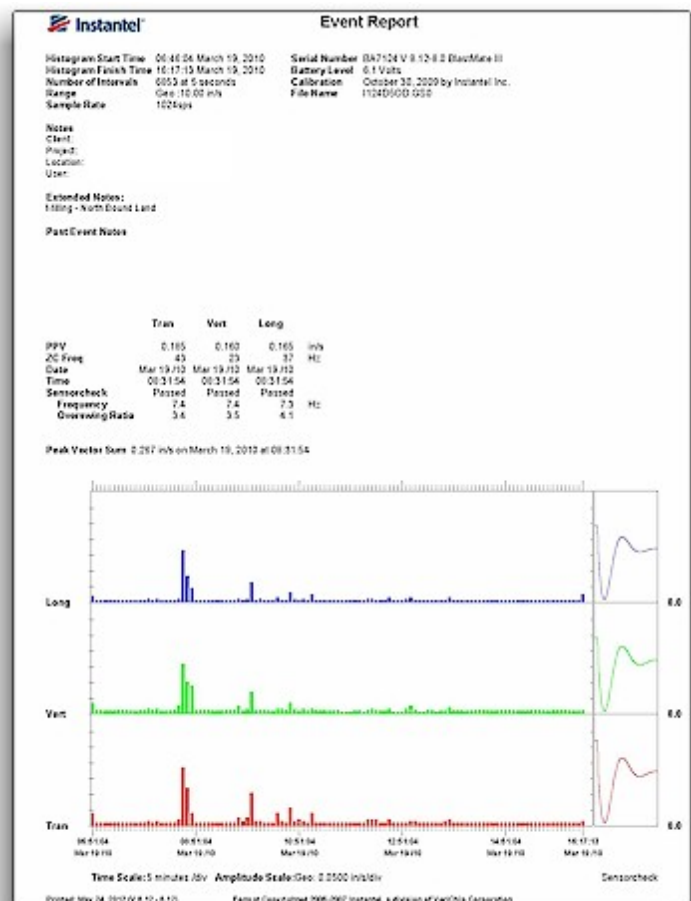


This page provides a brief overview of typical vibration monitoring reports - how to read them and what they can tell you. Although different analysis software will produce vibration data reports which look slightly different, the underlying vibration data are similar for all blasting seismographs. The reports are **not** the data, just ways of presenting different aspects of the data.

Shown below are reports for data taken by a Blastmate III seismograph from Instantel, one of the most commonly used models. The four basic types of data reports which make up the "Compliance Module" of the seismograph are easily understood. These report formats are generated by computer software, Blastware (screen shot at left), provided by Instantel for that purpose. To use the software, the vibration technician downloads the raw data from the instrument to his computer. He can then choose in the Blastware software what information is incorporated in the reports and what reports are printed.

Reading Vibration Monitoring Data Reports - Histograms

Shown at right is a histogram output from Blastware, using actual data acquired in the context of road construction work. The histogram top section has the dates and times covered by the histogram, the seismometer transducer head used, calibration date, battery status and data file name, along with explanatory notes. The histogram is recorded when the instrument is in its "Histogram Mode" or "Histogram Combo Mode". In the latter mode, an event of a size larger than the set trigger level will cause an event to be noted in an event report and in the "Monitor Log" (subject to memory limitations). In addition, the instrument will take readings at specified time intervals (every 5 seconds, as shown "Number of Intervals" entry in the report). A subset of these are then plotted in histogram form at the bottom of the sheet. The block of text in the



The ASCII Export capability seems completely unknown to at least some monitoring technicians. Now that you know about it, **insist on getting the actual data**, not just printed, pre-digested reports, so that you can find out what really happened by doing your own ASCII export. You, and the vibration monitoring technician, may be unpleasantly surprised.

Reading Vibration Monitoring Data Reports - Logs

Event Report: Monitor Log

Start Time	End Time	Status
SERIAL NUMBER: 847124		
Mar 18/10:06:43:51		Start Monitoring Trigger Level: Histogram
Mar 18/10:06:43:52	Mar 18/10:16:24:29	Event recorded: Keyboard Exit Trigger Histogram
Mar 18/10:09:00:18	Mar 18/10:09:00:23	Event recorded: Trigger Tran: 0.0500 in/s
Mar 18/10:09:25:11	Mar 18/10:09:25:16	Event recorded: Trigger Tran: 0.0500 in/s
Mar 18/10:13:04:37	Mar 18/10:13:04:42	Event recorded: Trigger Tran: 0.0500 in/s
Mar 18/10:13:14:32	Mar 18/10:13:14:37	Event recorded: Trigger Tran: 0.0500 in/s
Mar 18/10:13:14:37	Mar 18/10:13:14:42	Event recorded: Trigger Tran: 0.0500 in/s
Mar 18/10:13:14:43	Mar 18/10:13:14:47	Event recorded: Memory Full Exit Trigger Tran: 0.0500 in/s
Mar 19/10:08:48:04	Mar 19/10:10:17:13	Event recorded: Keyboard Exit Trigger Histogram
Mar 19/10:08:31:53	Mar 19/10:08:31:58	Event recorded: Trigger Long: 0.0500 in/s
Mar 19/10:08:33:12	Mar 19/10:08:33:17	Event recorded: Trigger Tran: 0.0500 in/s
Mar 19/10:08:33:19	Mar 19/10:08:33:24	Event recorded: Trigger Tran: 0.0500 in/s
Mar 19/10:08:33:26	Mar 19/10:08:33:31	Event recorded: Trigger Tran: 0.0500 in/s
Mar 19/10:08:34:20	Mar 19/10:08:34:25	Event recorded: Trigger Vert: 0.0500 in/s
Mar 19/10:08:34:37	Mar 19/10:08:34:42	Event recorded: Trigger Tran: 0.0500 in/s
Mar 19/10:08:34:51	Mar 19/10:08:34:56	Event recorded: Trigger Tran: 0.0500 in/s
Mar 19/10:08:34:57	Mar 19/10:08:35:00	Event recorded: Memory Full Exit Trigger Tran: 0.0500 in/s

Printed: May 24, 2012 (V.6.12 - 8.12)

Page 1

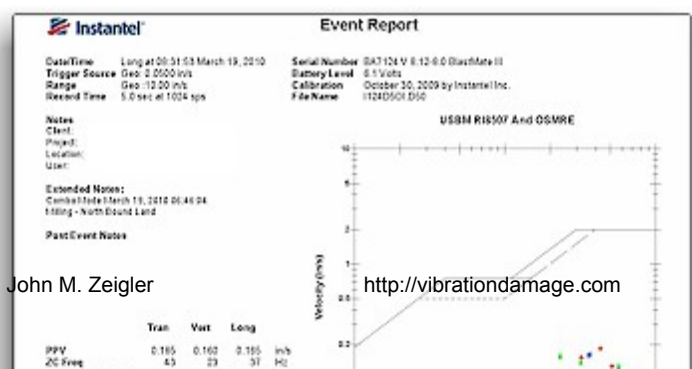
In Figure 2, a copy of a Monitor Log for the same period is duplicated. The monitor log is the most useful type of output for cross checking whether all data have been made available. It lists the date, start and stop times, when histograms were triggered, type and major vector of all events detected during the time covered by that log, all subject to the limitations of memory (typically 6-8 events). Events which occur after event memory is full are recorded on the histogram, but no waveform data are recorded, nor do they appear on the monitor log. From the monitor logs, we can determine whether all the waveform event data and histograms have been provided, just by cross-checking it with the provided events. A monitor log can be terminated at any time by the operator and a new one started at will, so having a monitor log that

runs for an hour doesn't mean that the seismograph only ran for an hour. There may be other logs for that day which contain more data. This is certain to be the case if event reports are produced whose times are not covered in the monitor log provided. Unlike the histogram, the monitor log only records those events that exceed the set instrument trigger level in size, again, up to the limit of the instrument event memory.

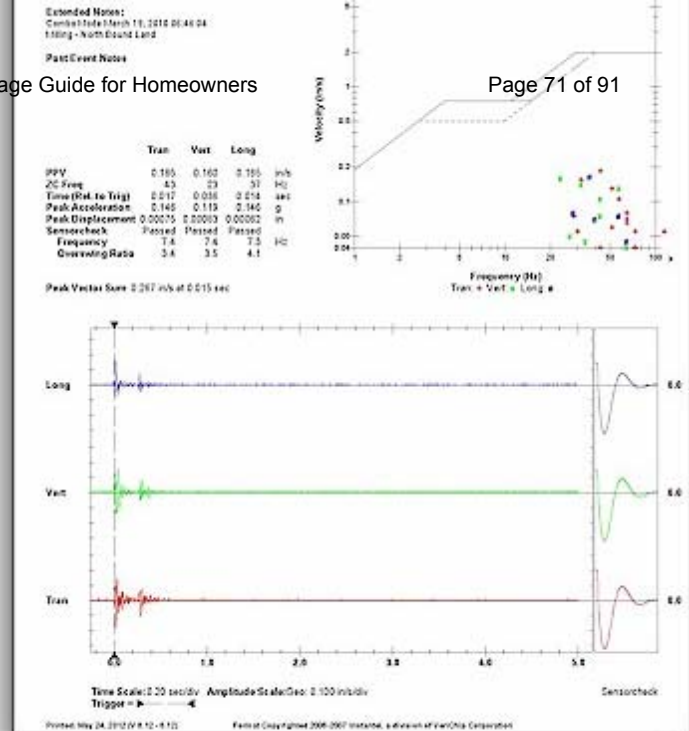
Reading Vibration Monitoring Data Reports - Waveforms

The Event Report has the detailed instrument analysis of a single event which exceeds the trigger level. Like the histogram, it has location, time,

©Copyright 2013 John M. Zeigler

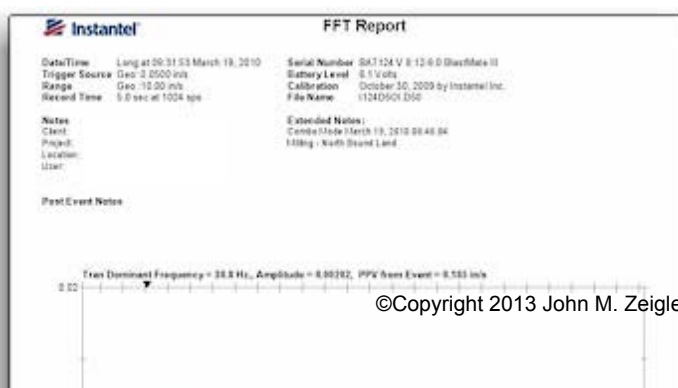


data file and other basic information at the top. The data file names are important, because they allow us to establish where duplicate pages have been included in produced reports, since each event has its own, unique, instrument-generated file name. Like the histogram, the text information in the middle left block is a numerical summary of the properties of the event in all three axes. The diagram in the bottom half of the report is a plot of the actual **waveform** of the vibration in all three vectors (longitudinal, transverse, and vertical). Because this report format has the vibration waveform on it, it is often referred to as "waveform" data. The right hand side of that plot is an instrument-generated sensor check signal, which simply shows that the sensors are working.



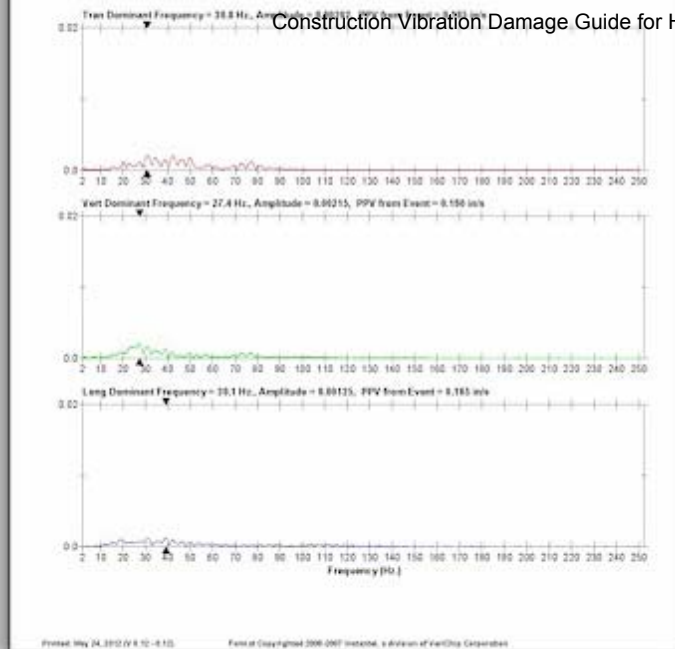
The plot in the upper right of the Event Report shows the amplitude (intensity) and frequency distribution in all three component vector axes for the vibration. The U.S. OSMRE and USBM RI 8507 blasting standards are represented in the lines across the middle of that diagram. As we've said elsewhere, the U.S. OSMRE and USBM RI 8507 **blasting standards are almost certainly not the right ones for construction vibration**, but they are commonly quoted, because they are very lenient on the construction vibrations allowed. The software allows the choice of which standards are printed in this "Compliance Plot", so, if you're located somewhere other than the U.S., you may see different standards plotted in the diagram. Some of the **Fast Fourier Transform** (CVDG Pro) derived component frequencies are shown as the data points in the compliance diagram at the upper left of the waveform report, although complete information is only available in the FFT Report discussed below.

The main use for the Event Report is that it shows us the duration and vector distribution of the vibration. Vertical vector events usually cause little problem, since houses are built to withstand loads vertically. Longitudinal and transverse vector components cause shearing, which most buildings in the U.S. are not built to withstand in more than small amounts. Most of the building reinforcement against earthquakes that has been done along the Pacific Coast addresses these shearing motions to a degree, by making the buildings more rigid laterally (side-to-side), or allowing them to move laterally without damage in response to shear forces.



Reading Vibration Monitoring Data Reports - FFT Report

The final type of report which Blastware can generate is the FFT Report, an example of which is shown at left. This report type,



which duplicates some of the vibration frequency information present in the Event Report, but has considerably more detail, is critical for evaluating resonance effects on structures. It shows the full frequency distribution (frequency spectrum) of the vibration, displayed as an amplitude (intensity) vs. frequency (also known as the "frequency domain") plot, whereas the event report shows the vibration as a plot of amplitude vs. time (known as the "time domain"), with the most intense vibration frequencies displayed as points on the plot. In some ways, the FFT report is the most important of all

the Blastware reports in understanding the potential for damage from road construction vibrations.

The frequency distribution of the vibration waveform is derived from Fast Fourier Transform (CVDG Pro) of the data, which decomposes the vibration wave form into its frequency components. FFT transforms it from an **amplitude vs. time display** ("time domain"), of the sort shown at the bottom of the waveform report, to an **amplitude vs. frequency display** ("frequency domain") of the sort shown in the FFT report. The vibration waveform plot above and the frequency plot at left are of the same vibration. They depict some of the same data, but in different and complementary ways. The frequency distribution of the vibration is important, because those frequencies near or at resonance with the house are much more damaging than those frequencies which are off resonance.

If you would like to learn more about what the Fourier Transform is and how it's done, see our page Fourier Transform (CVDG Pro). This page has a non-technical explanation of this form of vibration data analysis. You may be surprised to find that you've already depended on the Fourier Transform for your health and enjoyment!

Vibration Data Issues

SERIAL N	Start Mon	2C Freq	Time (Rel. to Trig)	Peak Acceleration	Peak Displacement	Sensorcheck	Check	Passed	Check
			0.456	0.311	-0.161				
			0.108	0.0398	0.0795				
			0.00047	0.00009	0.00027				
			2.3	7.5	10.1				
			2.0	3.9	4.7				

Properly used, blasting seismometers produce reliable measurements of vibration, at least until their memory fills with data. If you are given vibration reports from such a seismograph in the context of your claim, it would be wise to read and understand them. If a seismograph is placed in or near your yard, document its location on video or with photos on every such occasion, with close-ups of the transducer

head to show details of its installation. If the seismograph is being improperly used or critical data are being withheld, this documentation will be critical to establishing the facts. Contractors who have hired vibration monitoring firms should be alert for the kinds of problems discussed below, since such mistakes could render their vibration monitoring unreliable, unsupportable and scientifically meaningless.

What Can Go Wrong

You should keep in mind that a construction company may not significantly question, or even thoroughly read, any work consistent with its desired conclusions. They may not have the knowledge or understanding to do so, even if they are inclined to try. Indeed, in one example with which I'm intimately familiar, **all the report conclusions were directly contradicted by the data included with the report!** You, or someone else you know with scientific training, may be the only significant reviewer, scientific or otherwise, of the work. For homeowners, or those in the construction industry, who would like to understand better how to read vibration monitoring reports, see our page [Vibration Data Reports](#).

If you begin to have questions about the reliability of the monitoring, **get a copy of the operator's manual for the seismograph (see example at right)** and compare its instructions with the data in the reports and your own videos and photos of the seismograph installation and operation. You can usually either download a copy of the PDF manual from the seismograph manufacturer's web site or request one from that manufacturer. In a case with which I'm familiar, the seismograph operator routinely violated the seismograph operation manual criteria and many more.



If you get vibration data or reports, there are several matters that you should investigate, or have someone with scientific background help you investigate, as soon as possible:

- Are all the data on which the report bases its conclusions present? If you cannot find data which support all the conclusions of the report(s), this is an immediate red flag. **You must see absolutely all the data generated in**

connection with the project, not only that included with any reports, and you should see it **immediately**. Our experience was that it took two years to get even some of the vibration data; by then, almost all of the most critical data were "lost", without any credible explanation as to why the data were missing.

Similarly, the vibration technician could provide no explanation why he had not produced any known reports for 10 consecutive days (of 39 total) of monitoring!

✚ **Are the conclusions of the report justified by the included data?** Sadly, some vibration monitoring firms will simply write the same form report, pretty much irrespective of what the data actually say. Since monitoring firms are almost always hired by construction firms, it's a pretty good bet what such form reports will say. In your analysis, compare the data in report tables with the standards cited. Make sure that the cited standards are correctly applied (i.e. that construction standards, not blasting standards, are used). Check the histograms which show non-working periods (lunch hours, breaks) to get an idea of the vibration attributable to traffic and compare it to the level during work periods. There are many more issues which should be investigated when reading vibration monitoring reports; to some degree these are determined by the specifics of the data and the location of the seismograph.

✚ **Do the provided reports and data correctly reflect all the construction activities?** Sometimes contractors will have monitoring done on days when they are doing relatively little, but will "lose" the data for paving, compaction and demolition days, which are of most concern. Make sure that the provided information correctly shows all the work done, not just claimed "representative" data.

✚ **Do the monitor logs reflect all the events?** Because blasting seismometers are designed for use in "one shot" environments, they have limited event memory. Once that memory fills, the monitor logs stop recording events and waveforms; the histograms (and their underlying raw data) are your only way of finding out the true number of events. If the logs consistently show only 6-8 events recorded (or some other number for an instrument with more or less memory), there is a good chance that the remainder were lost to Memory Full Exit errors (see graphic above for an example).

✚ **If photos are included, do they show the seismograph properly installed?** The transducer head's mounting spikes should be firmly in solid ground, with all loose material of any sort moved completely out of contact with the transducer head, its connecting wire properly secured away from the head, any tree branches secured or otherwise not in contact with the head, and the head mounted level.



Alternatively, the head may be secured by placing a sand bag on top of it, with or without spiking. If any of these items are done incorrectly, the data are questionable at best and, at worst, completely unreliable due to **poor ground coupling**. Both the photo at right and the photo above show examples of improper mounting of the seismograph atop loose rock and debris, which interferes with the ground coupling necessary to record reliable measurements. This particular seismograph was also out of calibration - another violation of the ISEE Filed Guidelines and the operator's manual. The photo at right shows that the seismograph was also installed out of level, another violation, and with tree branches in contact with the transducer head - yet another violation. The



vibration technician also "lost" the data from this installation day - still another violation. Possible improper installations is one of the best reasons for religiously taping or photographing the seismograph installations.

- Has the seismograph been properly calibrated? Modern vibration seismographs do self-checks to evaluate proper functioning of the geophones; the instrument should indicate "Pass" or something equivalent in these checks for all three geophone axes on the reports (see the graphic above for a self-check failure example). Any other indication shows an improperly functioning instrument. A self-check pass indication is **not** a substitute for the yearly calibration recommended by the manufacturer of the instrument and required by law in many jurisdictions. You can usually find self-check and calibration information in the data reports.



- Is there anything that is non-standard about the setup of the seismometer? The ISEE Field Guidelines¹ provide suggested values for the most critical setup parameters of the seismograph. If the reports show any settings outside those values, there may be reason to question the data and/or the intent of the operator. In particular, you should pay attention to the "trigger level" setting. The trigger level is used to tell the seismometer when a vibration should be recorded. Any vibration below the trigger level is ignored. Setting the trigger level to something higher than the ISEE value of 0.05 in/sec can be a means of reducing the number of detected events, making it appear that there is less vibration than is actually occurring. There can be good reasons for setting the trigger level higher than normal (e.g. heavy large truck traffic on a street), besides trying to disguise events. But, this is another "red flag" demanding investigation, especially if more than one seismograph is used and they are set at different trigger levels.
- Is the person who took the data qualified to do vibration monitoring? All too often, people operating seismographs are "technicians" with little or no formal training and no certifications to do the monitoring. A reputable firm will indicate the qualifications of the seismograph operator in the report. Some states' Departments of Transportation formally certify operators of vibration seismographs. Worse yet, in some vibration monitoring firms, there is essentially no scientific review of the data and reports generated from them. The **lack of a formal internal scientific review process** at the vibration monitoring firm is another red flag.
- Can another person looking at the data repeat the measurements and get similar results, at least in principle? The essence of the scientific method is repeatability, i.e. that another individual using the same equipment in the same way could get essentially the same results. What this means in the context of vibration monitoring is that the reports and data should show all the setup parameters for the seismograph (trigger level, record time, calibration date,

detailed location, etc), among other information. Of particular importance is an accurate statement of the exact location of the seismograph (so many feet north/south of a fixed landmark, so many feet east/west, etc.) and distance/bearing to the vibration source. A mere street address is grossly insufficient, as properties can have a hundred feet or more of street frontage and extend back at least as much from the street frontage. If the technician is following the ISEE Field Guidelines², he will have a written log of exact location and other information for each use of the seismograph.

-  **How long does it take to install the seismograph?** - The ISEE Field Guidelines recommend a setup time of at least 15 minutes³ on site to mount the transducer head properly, turn on the seismometer and make the proper log notes. While it may be possible for a well-trained and organized technician to reduce that time a little, an elapsed time a lot less than 15 minutes is inherently questionable, possibly indicating other problems. We have seen and videotaped a technician take under 30 seconds to install a seismometer and leave it, resulting in some of the problems which are discussed here. At no time, did the same technician take more than 2 minutes to do a seismograph installation.
-  **Do the claims pass the "smell test"?** In one familiar example, the vibration technician asserted that he had measured "vibrations" from the passage of a garbage truck, which he claimed were comparable in intensity to those of the construction activities. However, examination of the actual data showed that the entire "garbage truck" vibration lasted only 0.3 second (literally the 'blink of an eye", one fast garbage truck). The data also showed continuous regular vibration going on in the background, attributable to the construction machinery, suggesting that the construction work might be the culprit, not the garbage truck. Further, the construction vibrations on the same day were at least 3 times higher than those of the "garbage truck", directly contradicting the claims made by the technician in his report. Records showed that the seismograph operator added the garbage truck association 3 days after the 0.3 second event! Later analysis of videotape taken by the construction company of another garbage truck passage, and his vibration data for the same period, showed that the truck passage produced no detectable vibration whatsoever, even though it was 10 times closer to the seismograph than the claimed one. This was not, by any means, the only example of questionable and unsupportable claims made by the vibration technician. **If it doesn't make sense, question it!**

This is not a complete listing of all the problems that could exist with poorly (or even, fraudulently) done vibration monitoring and reporting, but should give you a start on what to look for in reading and understanding such data and reports. More information about seismograph data analysis and potential issues with the data can be found in our *CVDG Professional* page, Vibration Data Analysis.

1. ISEE Field Guidelines for Blasting Seismographs, 2009 Edition, p. 4

2. ISEE Field Guidelines for Blasting Seismographs, 2009 Edition, p. 2

3. ISEE Field Guidelines for Blasting Seismographs, 2009 Edition, p. 2

Vibration Standards



Most vibration standards, which are properly used to judge the probability of a single ground vibration of a given size causing damage ([see below](#)), are based on data derived from mine blasting. Because blasting is a "one-shot" event, lasting at most, a second or two, while construction vibration can continue for hours or even days or months, use of such blasting standards for construction vibration is highly questionable. Indeed, it is discouraged by the studies on which they are based.

Nonetheless, such blasting standards are commonly, if improperly, quoted by contractors and the vibration monitoring firms hired by them, because they are very lenient on acceptable levels of vibration. Thus, some understanding of the standards, how they were developed, what they say, and what their shortcomings might be in construction contexts is important to ascertaining the relevance of such statements. Following is a brief description of the most commonly used standards, how they may be properly applied and what they mean for someone whose home or property may have been damaged by construction vibration.

Vibration Standard Criteria

The blasting seismograph translates its raw observations into a number of different measures of the speed of ground vibration. The one most accepted in the field is the **peak particle velocity (PPV)**, which, as the name implies, is a measurement of maximum ground particle movement speed. This quantity is measured in all three perpendicular axes of the seismograph's "geophones", as the magnet-in-coil detecting devices within the transducer head are called. PPV is a **vector** quantity (i.e. it has both a **value** and an **associated direction**). Studies have shown the PPV correlates best with damage potential of all the tested characterizations of ground movement.

The **peak vector sum (PVS)** is usually also quoted; it is simply the square root of the sum of the squares of the PPV values in all three vector directions measured by the seismograph. PVS is a **scalar** quantity, i.e. one with only a value, which is always larger than the individual PPV's. Virtually all the standards are quoted in PPV values, not PVS values, although the acceptable values of PPV differ with the standard used and with the frequency of the vibration components.

The three axes of measurement, the longitudinal (the vector connecting the orientation arrow on the transducer and source of vibration), transverse (the vector at 90 degrees to the longitudinal) and vertical (up and down) vectors, are always measured and reported separately. One reason for this is that they have different degrees of importance in causing damage. Structures are built to withstand vertical forces. For that reason, vibrations along the vertical vector are usually of lesser importance, though not always benign. Vibrations in both the longitudinal and transverse vectors have the potential for causing shear in the home structure, which is

a major contributor to damage effects. When in shear, various parts of the house move at different speeds or even in different directions, which can cause cosmetic cracking or even structural damage.

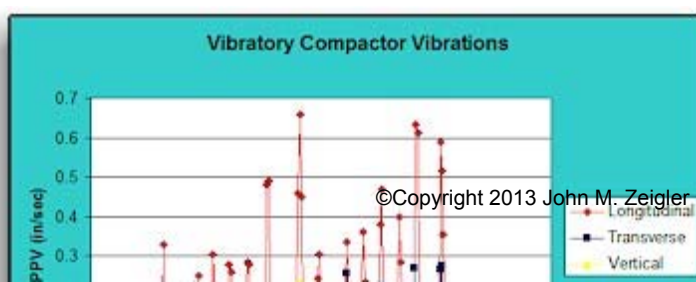
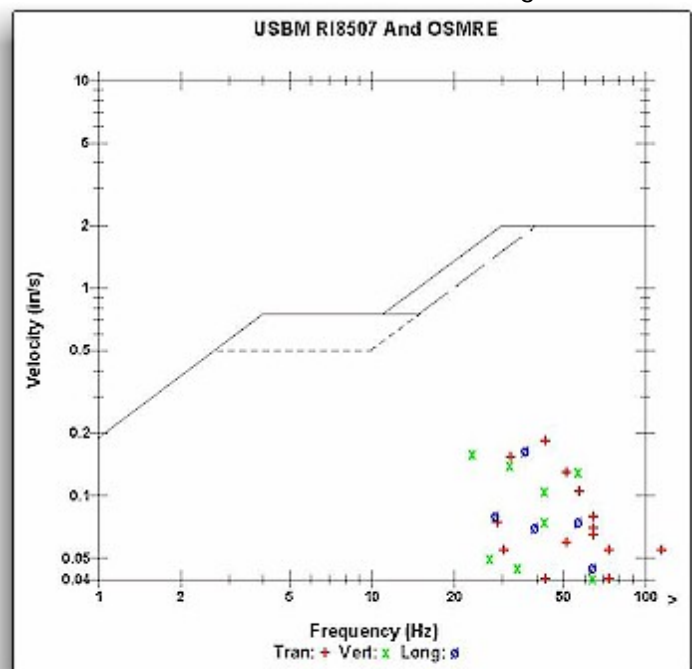
Frequency Dependent Damage Potential

The frequency components of the vibrations are critical determinants of the damage potential. It is well known and understood that structures have natural vibration frequencies, called "resonances", a little like those of a tuning fork. Such resonant vibrations are more felt than heard, due to their low frequencies. At the home's resonant frequency, any repeated vibrations, like those caused by construction, are added to one another and the vibration in the house grows, rather than dying away in a few seconds. Thus, even small components of a vibration which occur at the resonant frequency are potentially dangerous to the home. Such resonant phenomena also bring into play so-called "fatigue" issues.

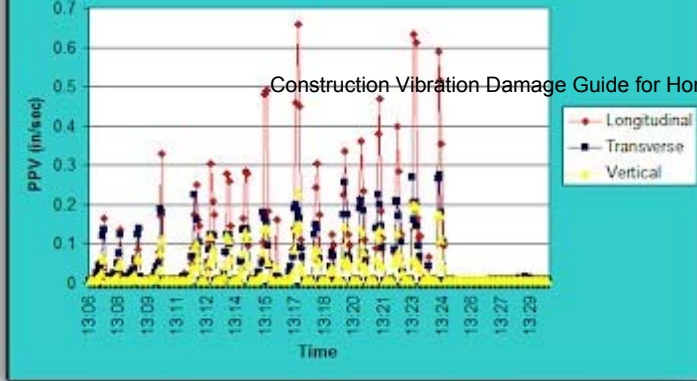
For this reason, most ground vibration standards take into account the frequency dependence of the vibration damage potential, setting more rigorous standards at lower frequencies than at higher ones. Because of the self-reinforcing nature of vibrations with components at the resonant frequency, continuous vibrations associated with construction are more worrisome than the relatively infrequent, short duration ones caused by blasting. For more discussion of resonance and fatigue effects, see our page Resonance/Fatigue.

Blasting-Related Standards and Studies

By far the most commonly used **blasting** vibration standard in the U.S. is the U. S. Bureau of Mines, Office of Surface Mining (OSM) standard¹. It was developed in the early 1980's to address shortcomings of earlier, less stringent standards suggested by OSM. The **OSM standard** is based largely on a highly respected study done by the U.S. Bureau of Mines, Research Investigation 8507 (USBM RI 8507) and studies referenced therein. As with most other standards, the OSM explicitly recognizes a frequency dependence of damage potential, with lower frequencies known to be more prone to causing damage. Many state and Federal agencies use this standard for blasting-related vibrations. An example of a vibration plot showing the RI 8507 limits and the OSM standard is shown at right.



Note that, in the frequency regime below 40 Hz, two limits are defined in the RI 8507 study, on which the OSM standard is based:



one at 0.75 in/sec PPV for "Modern homes, Drywall interiors" and one at 0.5 in/sec PPV for "Older homes, plaster on wood lath". The OSM standard does not explicitly recognize the Safe Blasting Levels of 0.5 in/sec PPV suggested in RI 8507 for "Older homes, plaster on wood lath

construction for interior walls" at frequencies below 40 Hz⁵. Instead, it adopts the RI 8507 recommendation of 0.75 in/sec for "Modern homes, Drywall interior" at frequencies below 40 Hz. Thus, if you have plaster walls, the blasting recommendation in RI 8507 is lower than the OSM standard. This differentiation is important, since vibratory compactor vibrations in a road construction job often exceeded the RI 8507 0.5 in/sec limit (see at left for one of many examples), as well as several or all of the FTA standard limits (see below).

Misuse of Blasting Standards in Construction Settings

Because the OSM standard is based on single blasting events, rather than the semi-continuous ones generated by road construction, the USBM RI 8507 study, on which it is based, explicitly indicates that continuous vibrations might require a more stringent standard:

*"The damage probabilities realistically refer to numbers of homes being affected by a given shot rather than the number of shots required to damage a single home....Additional work on fatigue and special soil and foundation types may later justify stricter criteria."*²

*"Safe vibration levels for blasting are given in Table 13, being defined as levels unlikely to produce interior cracking or other damage in residences. Implicit in these values are assumptions that the structures are sited on a firm foundation, do not exceed 2 stories, and have the dimensions of typical residences, and that the vibration wavetrains are not longer than a few seconds."*⁵ (emphasis added)

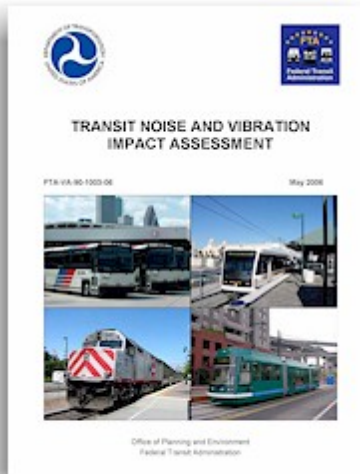
Despite these and other explicit indications that blasting standards are inappropriate in settings with vibration lasting longer than a few seconds, the OSM standard is widely used, even outside of mining. It is also misused for relatively long-lasting construction vibrations by some governmental agencies and construction contractors, probably because it sets very high limits on ground vibration intensities.

The Swiss Standards

Another set of standards that is widely cited worldwide are the "Swiss standards" (SN 640 312a). There are actually three separate "Swiss standards": one for blasting, a more rigorous one for pile driving and a still more rigorous one for machines and

traffic. It is obviously the last one which is most applicable to road construction and use. As with most other standards, acceptable levels of vibration in each of these standards are frequency dependent, with less vibration tolerated at frequencies below 60 Hz (Hertz, cycles per second). The Swiss standards are not commonly used, *per se*, in the U.S., although they are widely cited in ground vibration discussions and research.

Construction and Traffic Standards



The most relevant standard in a situation where the state or municipality has no, or limited, construction vibration standards is the **Federal Transit Administration (FTA) standard**. The **Federal Transit Administration's Noise and Vibration Manual** (shown at left) is one of the most widely cited sources for vibration standards for road construction and traffic in the U.S. It is well worth reading in detail, as it has a great deal of summary information on vibration, noise and other construction impacts. It defines a standard for vibration in road construction situations, which is quite different from, and considerably more restrictive than, the OSM blasting standard. At the risk of some over-simplification, the FTA standard can best be characterized as using the four structural categories and

limits defined in the Swiss machines and traffic standard (quoted from the FTA standard⁴ below):

FTA Vibration Limits

<i>Building Category</i>	<i>PPV (in/sec)</i>
<i>I. Reinforced-concrete, steel or timber (no plaster)</i>	<i>0.5</i>
<i>II. Engineered concrete and masonry (no plaster)</i>	<i>0.3</i>
<i>III. Non-engineered timber and masonry buildings</i>	<i>0.2</i>
<i>IV. Buildings extremely susceptible to vibration damage</i>	<i>0.12</i>

A typical modern, wood-framed home with drywall ("sheetrock", "gypsumboard") interiors and essentially no damage would be considered a Class III building. A home significantly damaged by construction should probably be considered as a Class IV structure. While this assignment of damaged homes to Class IV might be disputed by some, it is consistent with my experience that a road construction vibration of 0.185 PPV caused specific and traceable (i.e. videotaped) additional damage to a home previously damaged by construction. A comparison of these FTA vibration limits with the vibratory compactor vibration plot above shows that the compaction operation exceeded one or more of the FTA standards over 100 times in about an 18 minute period in front of a single home.

The FTA standard differs slightly from the Swiss one in that it applies the high frequency PPV limit in the Swiss standard at all frequencies. Thus, this standard is **more lenient than the Swiss**, particularly at the lowest frequencies of most concern for resonant interactions with the home, but far more confining on construction vibration than the OSM blasting standard. You can find links to download copies of all these standards on our [More Information](#) page.

Municipal, State and Federal Vibration Standards

Individual state and Federal government agencies have set various standards for acceptable vibrations. Although they tend to be derived from or identical to one or more of the basic standards discussed here, one should survey his own state's DOT web site for information on construction vibration standards specific to road construction in that state, if any exist at all. In New Mexico, where I reside, the only road construction vibration standard adopted by the New Mexico Department of Transportation (NMDOT)³ is the OSM blasting standard, **applicable only to blasting done during road construction. Other vibration-causing activities in road construction have no statewide standard in NM.**

Many municipalities also have vibration standards of their own, which may not be identical to the state standards. You should also check on the Internet for vibration standards in your city by using search strings like "[name of city] vibration". Unfortunately, such standards are too often set on the basis of advice from "experts" who do most of their work for construction companies. Predictably, those standards tend to be based on the scientifically inappropriate, and much more lenient, mining vibration standards, rather than construction standards. If your city has such municipal standards based on blasting, you should be prepared to challenge their appropriateness in a construction setting, should that become an issue.

Vibration Standards Worldwide

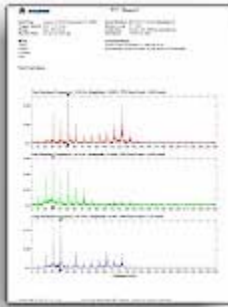
Most developed countries have human-caused (i.e. excepting earthquakes) ground vibration standards for at least some circumstances. Many of them are derived, in some ways, from the three discussed above. There are separate standards for Australia (2187.2), Brazil, Britain (British Standard 7385), France (Recommandation GFEE), India (DGMS A and B), the Czech Republic, Slovakia, Sweden, New Zealand (4403), Germany (DIN 4150) and Spain, just to name a few. In addition, there is an ISO standard, ISO 4866, and a draft ASTM standard, ASTM WK7731. In the U.S., acceptable peak particle velocities are quoted in inches per second (in/sec), while most other worldwide standards are quoted in millimeters per second (mm/sec). Divide a standard quoted in mm/sec by 25.4 to convert it to in/sec.

Some of these worldwide standards deal with machinery vibrations in factory settings, as well as construction ground vibration. Of the world vibration standards, the FTA, Swiss, OSM, German, British and ISO standards seem to be the most cited within the ground vibration literature. You can get copies of virtually all of them over the Internet, though you may have to pay for some of them.

1. OSMRE Blasting Guidance Manual, p. 24

2. USBM RI 8507, p. 59
3. NMDOT Standard Specifications for Highway and Bridge Construction, Section 617, pp. 433-434.
4. Federal Transit Administration's *Noise and Vibration Manual*, p. 12-13
5. USBM RI 8507, p. 58

Resonance/Fatigue



Typical construction vibrations are usually composed of many frequency components. The specific makeup of the vibration components is a critical determinant of the vibration damage potential. It is well known and understood that structures have natural vibration frequencies, called "resonances", a little like those of a tuning fork or a bell. **At the home's resonant frequency, any repeated or continuous vibrations, like some of those caused by construction, can augment ("amplify") one another.** This causes the vibration in the house to grow, rather than dying away due to the natural damping in the house structure. Thus, even small components of a vibration which occur repeatedly or continuously at the resonant frequency are potentially dangerous to the home.

A Simple Analogy

As an example illustrative of how resonance works, imagine that you are pushing someone on a swing. If you time your pushes to coincide exactly with beginning of the forward movement of the swing, the person in the swing will go higher and higher. That's because you have timed your pushes to be in **resonance** (in physics terms, "in phase") with the period of the pendulum motion of the swing. The growth in the swing's motion with repeated resonant pushes is an example of **amplification**, discussed below in the context of home vibrations. If you stop pushing, the swing's momentum will slowly die out, due to friction and air resistance. Those are forms of **damping** (discussed below in the context of home structures). Suppose now that, instead of pushing just at the right moment, you push both then and at a time when the swing is at the top of its arc. On every second push, you will provide forward momentum to the swing, but the push at the top of the arc will be wasted. That example shows why pushes at even multiples of the "resonance frequency" of the swing will still contribute to its motion, though progressively less effectively as the frequency of the pushes increases. These even multiple, higher frequency pushes are called "**overtone**s" in physics; they contribute to the swing motion, even though they are not directly in resonance.

Additive Vibrations in Homes

Going back now to vibrations in homes, it's easy to see that vibration frequencies whose peak intensities or amplitudes ("pushes") are equal to or are at even multiples of the home resonance frequency will cause vibrations in the home much more efficiently than those frequencies which do not meet these conditions. Each passing wave peak in resonance with the home's natural vibration frequency causes an increase in the vibration in the home. Since a given vibration can have many additive peaks, such resonant interactions can be particularly dangerous for the structure. **The longer the vibration lasts, the worse the situation gets.**

Resonance Effects and Damage Potential

Actual home resonance frequencies can be easily determined by attaching a seismograph to the house wall, vibrating the house, then turning off the vibration. The house will continue to vibrate for a few seconds at its resonant frequency. For whole home vibrations, the **resonance frequency is in the range of 8-12 Hz**, typically. For vibrations of individual walls, that frequency is around 20-25 Hz (see [USBM RI 8507](#)¹). **Such vibration frequencies are more felt than heard.** Structure resonant frequencies can also be calculated from engineering principles, but the results are often inaccurate in the simplest such calculations.

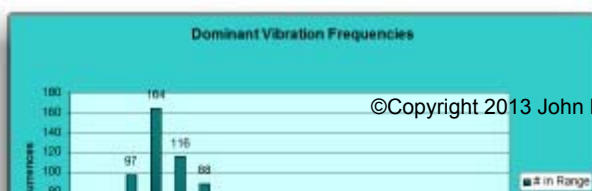
The growth of vibrations in a house due to resonance is referred to as "**amplification**". Amplification in houses has been measured and reported in [USBM RI 8507](#)². For mid-wall vibrations (i.e. those responsible for pictures rattling, for example), the amplification can be as high as a factor of eight in blasting vibrations. For corner vibrations (those responsible for cracking at wall penetration corners), it can be as high as a factor of four in blasting vibrations.

Due to these resonance phenomena, most ground vibration standards take into account the frequency dependence of the vibration damage potential, setting **more rigorous standards at lower frequencies** than at higher ones. Because of the self-reinforcing nature of vibrations with components at the resonant frequency, **continuous vibrations associated with construction are more considerably worrisome than the occasional short duration ones caused by surface mine blasting**. For example, [USBM RI 8507](#)³ has this quote:

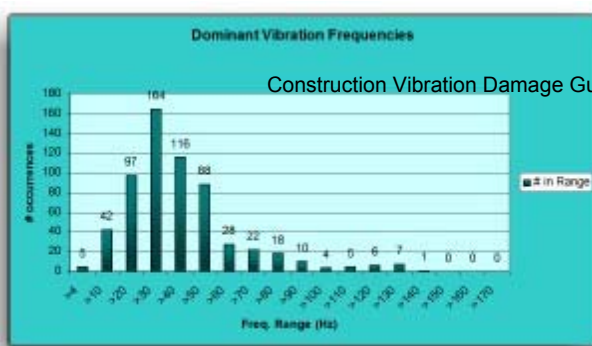
"The safest approach is to consider the low-frequency part of the time history separately, and where it is below 40 Hz, use the 0.75 in/sec or 0.50 in/sec criteria. If Fourier spectral analysis is used, any spectral peak occurring below 40 Hz and within 6 dB (half amplitude) of the peak at the predominant frequency justifies the use of the lower criteria." (emphasis added)

Vibration Frequency Components

The frequency of the largest peak in a construction vibration can be easily approximated in vibration monitoring reports, and often is, as a so-called "zero crossing frequency" ("ZC frequency"). The ZC frequency can be reasonably accurate for simple waveforms with few frequency components, it can be quite inaccurate for complex waveforms. A considerably more accurate analysis of all the frequency components of a vibration can be obtained by Fast Fourier Transform (FFT) analysis (CVDG Pro) of the vibration waveform. Typically, vibrations generated by mechanical equipment (e.g. vibratory compactors) have relatively narrow frequency distributions, while those generated by impact (e.g. pile driving or pounding on pavement with an excavator bucket) have broad frequency distributions. A full plot of the vibration frequency distribution is called a "vibration spectrum" and is one of the most useful tools in determining the damage potential of a given vibration.



At left is a chart display of the dominant frequencies of vibrations in a road

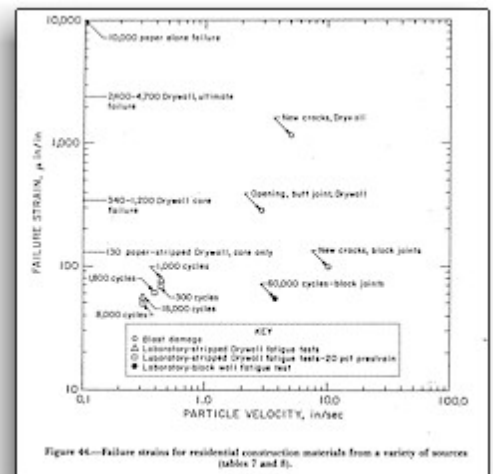


construction job, extracted by Fourier transform analysis (CVDG Pro) of the waveform vibration data. These data reflect most kinds of road construction activities, though they do not include the majority of the most intense vibrations (due to early Memory Full Exits), nor the pavement pounding that was most

damaging. Directly contradictory to sworn statements made by the construction company and their "experts", you can see from the diagram that a majority of the vibrations for which waveform data were obtained had dominant frequencies below the 40 Hz cutoff mentioned in the RI 8507 quotation above. This is a good example of why one must look carefully at vibration monitoring data to make sure they are being properly presented and interpreted.

Fatigue Effects

Most of us are familiar with the experience of breaking a paper clip or a piece of hard plastic. If we bend it once, nothing much happens beyond the bending. If we continue to bend in the same spot, eventually the paper clip will break. This is an example of material **fatigue** in the technical sense. Houses can also experience fatigue if they are vibrated many times or, worse yet, continuously. In blasting settings, it can take many blasts for the house to develop fatigue cracking. However, because construction vibrations are often continuous for minutes, hours, days or even months at a time, they can give the house an accumulation of vibrations that would take many years to achieve in blasting at a mine or quarry site (see failure strain and fatigue effect diagram from USBM RI 8507⁴ at right).



Fatigue effects in construction vibration are an area of current research, since it is commonly recognized that they are not fully understood for construction settings. However, it is usually acknowledged that fatigue is more likely to manifest itself with construction vibrations than with blasting vibrations. In short, while excellent blasting vibration studies like USBM RI 8507 have real value, **blasting standards are poor predictors of damage potential in continuous or extended vibration settings, like those in construction.**

Damping

While resonance tends to reinforce and prolong structure vibrations, its opposite is **damping**, whose effect is to cause vibrations ultimately to die away. Damping values for homes have been measured and reported in USBM RI 8507⁵. They are typically in the range of 2 to 4% of "critical damping" (i.e. that level of damping which causes instantaneous loss of the vibration). The low damping value for homes means that vibrations can persist for long enough that resonance reinforcement by continuous

vibrations can easily occur.

This discussion of resonance, amplification, fatigue and damping is, by no means, exhaustive of all the matters that should be considered in evaluating resonance effects and their role in causing damage. I hope that it will help homeowners better understand the terms and their importance, so they can read the literature more productively.

-
1. USBM RI 8507, pp. 30-31
 2. USBM RI 8507, p. 33, *et seq.*
 3. USBM RI 8507, p. 59
 4. USBM RI 8507, p. 44
 5. USBM RI 8507, pp. 30-31

More Information



The Internet has an immense amount of information for people who may be pursuing a vibration damage claim on their home. Much of this information is available in downloadable PDF format; you will need a copy of the [free Adobe Reader](#) to view or print them. Following are some starting links to a few of the most valuable ones:

- ✚ [OSM Blasting Download Page \(http://arblast.osmre.gov\)](http://arblast.osmre.gov)- This page is the best one-page source of blasting-related vibration documents on the Internet. You can find here PDF versions of USBM RI 8507, the OSM Blasting Guidance manual, which includes the OSM standard, and much more, for free.
- ✚ [FTA Noise and Vibration Manual \(http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf\)](http://www.fta.dot.gov/documents/FTA_Noise_and_Vibration_Manual.pdf) - An invaluable source of information on traffic and road construction related ground vibration. It includes the FTA standard and much more.

Although the whole manual is useful, most readers will find Chapter 12 to be particularly valuable.
- ✚ [ISEE Field Practice Guidelines For Blasting Seismographs 2009 Edition \(http://www.isee.org/media/pdf/FieldPracticeGuidelinesRev03_01_10.pdf\)](http://www.isee.org/media/pdf/FieldPracticeGuidelinesRev03_01_10.pdf) - The "bible" on proper setup and use of a blasting seismograph. Since most vibration monitoring seismographs are designed as blasting seismographs, this is important for homeowners to read in understanding vibration monitoring.
- ✚ [Minimizing Construction Vibration Effects \(http://www.jurispro.com/files/documents/doc-1066204429-article-1460.pdf\)](http://www.jurispro.com/files/documents/doc-1066204429-article-1460.pdf) - A good summary article regarding construction vibration effects and damage

This short list is far from exhaustive, as there are literally hundreds of relevant documents available, but these are good starting points in understanding road construction vibration damage issues.

Closing Thoughts



Most construction contractors are honest, decent people who are trying to do a professional job, usually under significant time constraints, at the lowest possible cost. Sometimes, some limited vibration damage in a residential neighborhood can occur, even for work done by the most well-meaning and careful of contractors. Such well-meaning contractors will usually be reasonable about resolving damage claims, without subjecting the injured party to much more than the minimum amount of abuse and worry. These are people we should all respect.

Unfortunately, not all contractors can be said to fall into that category. These other folks, sometimes with the support of the people who fund them, will ignore recommended safe methods, Federal regulations, operation manuals and their own policies, damaging your home and others. Then, they will come back to do the same things again in the same spot - after you've told them about the damage to homes in your neighborhood. If your house gets spoiled by one of those, you're in for an unpleasant fight. Nonetheless, **you can pursue, and win, a damage claim** against them, if you have a legitimate claim and the determination, knowledge and resources to see it through. If you do, we wish you success; we hope this Guide will help you get through that process, with less unnecessary hassle and expense.

Every time a dishonest and/or irresponsible contractor fights a legitimate vibration damage claim and loses, the world becomes a bit **safer for everyone's homes and property**. Every time an insurance company has to absorb a claim loss because the contractor policyholder repeatedly did things it knew were **inappropriate, risky and in direct opposition to its own policies**, the higher the insurance costs become for such people and the more likely it is they will mend their ways. Contractors must report litigation and claims against them in proposals. Although some conveniently forget to do so, word of mouth can produce much the same result. **A real and manifest sense of responsibility on the part of contractors to those who live in their work areas can only be positive for all concerned.**

The *Construction Vibration Damage Guide for Homeowners* has a lot of information, but it has been **deliberately abridged and greatly simplified**, so that those without technical or legal backgrounds can get maximum benefit from it. **Some of the things which I've had to gloss over or omit entirely include:** interpretation and analysis of vibration monitoring data, setup and use of vibration seismometers, vibration damage scientific literature, legal advice and counsel, proper use of construction equipment, expert counseling on scientific and legal issues, contractual responsibilities of contractors, advice in dealing with insurers, understanding of construction operations, and engineering analysis of damage and its causes, to name just a few. Many of these issues are discussed in more detail in the [CVDG Professional](http://vibrationdamage.com)

Edition. You will probably also need help from a **good** attorney and **good** experts, if you can't settle your claim. I place the emphases in the last sentence because, as with all other groups of people, not all attorneys and experts are created equally.

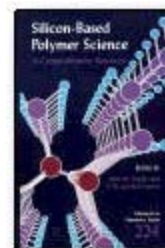
While it can't cover every aspect of construction vibration damage, I hope that the *Construction Vibration Damage Guide for Homeowners*, and the scientific, litigation and personal experience that led to it, has been of value to you. I would be happy to hear your comments and suggestions for improvement. You can send them to drzeigler@vibrationdamage.com. I will read them, respond and incorporate the responses in later versions, to the extent possible. Thanks for taking the time to read the *Guide*.

CVDG Author

Construction Vibration Damage Guide for Homeowners - About the Author



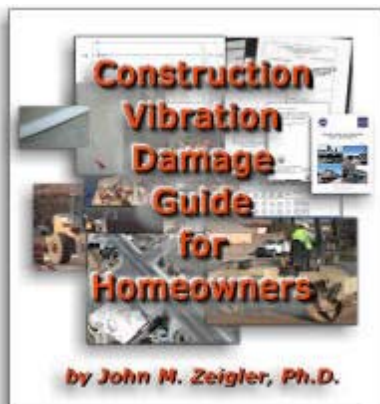
Dr. John M. Zeigler has an earned Ph.D. in Organic Chemistry from the University of Illinois, a highly-ranked chemistry graduate program, and is a member of the Phi Beta Kappa Society. He is co-editor and co-author of an ACS Advances in Chemistry reference volume on silicon-based polymers, shown at right, and has been a long-time member of the Editorial Advisory Board



of the *Journal of Inorganic and Organometallic Polymers*.

A co-recipient of an international IR-100 award for the development of polysilane self-developing photoresists, he is also the inventor or co-inventor on over 30 U.S. and foreign patents. He has published over 60 papers in the scientific literature and been an invited speaker at scientific meetings and universities over 100 times, as well as serving as an organizer of several international scientific meetings. Dr. Zeigler has also worked in silicones and other silicon-based polymers, conductive polymers, receiving several patents in that area, super-acid catalysis, polymer photodegradation, and organic chemistry research.

He has been involved in litigation support work for nearly 20 years, primarily in various aspects of medical devices materials, manufacturing and quality control, in addition to scientific consulting and other activities. A *curriculum vitae*, listing publications, invited presentations, patents, testimony and other relevant materials is available. A separate business website, <http://silchemistry.com>, has more information on his background and work.



Dr. Zeigler developed considerable scientific and litigation expertise in construction vibration damage, arising from extensive damage done to his home during a road reconstruction project. He was the primary scientific consultant throughout that case. The consulting included damage and scientific documentation, testimony, expert and attorney scientific preparation, vibration monitoring data analysis, and case assembly all the way through trial. Although not a retelling of his case, the CVDG, in both the free Homeowners version and the Professional Edition, is based on what he learned in that nearly 4

year experience.

See if We Can Help You!

If you're interested in exploring whether we can help in your construction vibration damage issues, as a homeowner, an attorney or as a responsible contractor, contact us now. Initial consultations are free and confidential, without obligation. You can reach us by e-mail to drzeigler@vibrationdamage.com or visit Dr. Zeigler's company site at <http://silchemy.com>.